AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 113–166

NOMINATION OF JACOB J. LEW

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF

JACOB J. LEW, TO BE SECRETARY, DEPARTMENT OF THE TREASURY

FEBRUARY 13, 2013



Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE
86–523—PDF WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON FINANCE

MAX BAUCUS, Montana, *Chairman*

JOHN D. ROCKEFELLER IV, West Virginia
RON WYDEN, Oregon
CHARLES E. SCHUMER, New York
DEBBIE STABENOW, Michigan
MARIA CANTWELL, Washington
BILL NELSON, Florida
ROBERT MENENDEZ, New Jersey
THOMAS R. CARPER, Delaware
BENJAMIN L. CARDIN, Maryland
SHERROD BROWN, Ohio
MICHAEL F. BENNET, Colorado
ROBERT P. CASEY, Jr., Pennsylvania

ORRIN G. HATCH, Utah
CHUCK GRASSLEY, Iowa
MIKE CRAPO, Idaho
PAT ROBERTS, Kansas
MICHAEL B. ENZI, Wyoming
JOHN CORNYN, Texas
JOHN THUNE, South Dakota
RICHARD BURR, North Carolina
JOHNNY ISAKSON, Georgia
ROB PORTMAN, Ohio
PATRICK J. TOOMEY, Pennsylvania

AMBER COTTLE, *Staff Director*
CHRIS CAMPBELL, *Republican Staff Director*

CONTENTS

OPENING STATEMENTS

	Page
Baucus, Hon. Max, a U.S. Senator from Montana, chairman, Committee on Finance	1
Hatch, Hon. Orrin G., a U.S. Senator from Utah	3
Schumer, Hon. Charles E., a U.S. Senator from New York	6

CONGRESSIONAL WITNESS

Domenici, Hon. Pete, former U.S. Senator from New Mexico	8

ADMINISTRATION NOMINEE

Lew, Hon. Jacob J., nominated to be Secretary, Department of the Treasury, Washington, DC	10

ALPHABETICAL LISTING AND APPENDIX MATERIAL

Baucus, Hon. Max:	
Opening statement	1
Prepared statement	63
Domenici, Hon. Pete:	
Testimony	8
Hatch, Hon. Orrin G.:	
Opening statement	3
Prepared statement	66
Lew, Hon. Jacob J.:	
Testimony	10
Prepared statement	69
Biographical information	73
Responses to questions from committee members	79
Schumer, Hon. Charles E.:	
Opening statement	6

NOMINATION OF JACOB J. LEW, TO BE SECRETARY, DEPARTMENT OF THE TREASURY

WEDNESDAY, FEBRUARY 13, 2013

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:10 a.m., in room SD–215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Rockefeller, Wyden, Schumer, Stabenow, Cantwell, Nelson, Menendez, Cardin, Brown, Bennet, Casey, Hatch, Grassley, Crapo, Roberts, Enzi, Cornyn, Thune, Burr, Isakson, Portman, and Toomey.

Also present: Democratic Staff: Amber Cottle, Staff Director; Lily Batchelder, Chief Tax Counsel; Tiffany Smith, Tax Counsel; and Jeff VanderWolk, International Trade Counsel. Republican Staff: Chris Campbell, Staff Director; Mark Prater, Deputy Chief of Staff and Chief Tax Counsel; Nicholas Wyatt, Tax and Nomination Professional Staff Member; and Aaron Taylor, Professional Staff Member.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The hearing will come to order.

Before we begin this morning, I want to recognize 6 new members to the Senate Finance Committee: Senator Sherrod Brown; Senator Michael Bennet; Senator Pat Toomey; Senator Robert Portman; Senator John Isakson; and Senator Bob Casey. Welcome, all.

We are honored to have you. I think you will find the tradition of this committee is one that is very proud. We have worked together. I am just very happy that you are here with us to help move that tradition forward at an even deeper, faster, greater rate. You are all very talented members of this committee, and we deeply appreciate your attendance.

Less than 2 miles from where we sit today at the entrance of the U.S. Treasury building stands a large bronze statue. One would assume the figure cloaked in colonial garb is Alexander Hamilton, America's first Treasury Secretary. Look again. This 12-foot tall statue is of Albert Gallatin, the longest-serving U.S. Treasury Secretary.

In 1801, Thomas Jefferson asked Gallatin to serve. Gallatin did not shy away from the role's challenges, but he did recognize the

enormity, and he said, "The place of the Secretary of Treasury is more laborious and responsible than any other." As Treasury Secretary, Gallatin laid the policy framework for the rise of the United States as an economic engine. That is Albert Gallatin.

What did he do? He established fiscal discipline that was necessary to transform a young country into a great world power. Gallatin also helped orchestrate the Louisiana Purchase, doubling the size of the United States and bringing my home State of Montana into the young Nation.

His work is commemorated in Gallatin County, MT and the beautiful Gallatin National Forest in Montana's northern Rockies, as well as the Gallatin River, one of the tributaries of the Missouri.

When Gallatin accepted the position, it was noted at the time that he was placed in a situation of trust. Today we are here to consider the nomination of Jack Lew to be the Nation's next Secretary of Treasury. We are here to determine if he is worthy of this situation of trust.

Jack Lew has a long and distinguished career focused on public service, with experience in both academia and on Wall Street. During one of his stints as OMB Director, he helped guide our Nation through one of the greatest periods of economic growth in America's history. We will learn more about his record from Senators Schumer and Domenici in a moment, but there is no doubt that he is experienced.

As Gallatin said, there is no more laborious or responsible position than Treasury Secretary. Mr. Lew will have his work cut out for him. Our economy today is on the road to recovery, but it is a road with many twists and turns. Last week, CBO released a report showing the deficit, as a percent of GDP for 2012 to 2015, will be cut in half, and the debt-to-GDP ratio will be stable for the next 5 years.

The Budget Control Act of 2011 and the end-of-the-year fiscal cliff arrangement, both bipartisan, have made a difference. Nearly $2.4 trillion of deficit reduction has been locked in for the next 10 years.

But, while progress has been made, the job is certainly not over. We have many tough decisions ahead of us. The first challenge is the sequester, the across-the-board cuts to programs starting in just over 2 weeks. Then we quickly face the threat of a government shutdown.

The sequester will cut critical programs, including Medicare, rural development, and early education. We need to work together, Republicans and Democrats, House and Senate, with the administration, to prevent indiscriminate cuts and lasting economic damage.

The state of the economy is still fragile. The unemployment rate rose slightly in January and is projected to remain stubbornly high: 8 percent in 2013, 7.6 percent in 2014. These numbers are troubling. Combined with the more favorable deficit numbers, the unemployment figures show that we cannot take our eye off the ball, that is, the economy and job creation.

Mr. Lew, you need to concentrate on three areas to provide greater economic growth and certainty for the Nation. First, focus like a laser on job creation. Do not get distracted. As a leader of the

President's economic team, you must put in place policies that create more jobs and spark economic growth. Unemployment near 8 percent for the next 2 years is unacceptable. Use your office to develop new ideas to produce job creation and to relieve small businesses of needless regulatory burdens.

Second, you must help return predictability and stability to our Nation's capital. We have to get off this roller coaster of crisis after crisis. These crises are frustrating the American people and harming the economy. You need to help us achieve stability in fiscal policy as the economy continues to repair itself after the financial meltdown in 2008. That will help give businesses and families certainty and confidence.

Finally, we must simplify our tax code for individuals, for businesses. We need to make the system fairer and help make U.S. businesses more competitive in the global marketplace. As Treasury Secretary, you will be in a position to help make tax reform a reality. We will need not only your leadership, but your solid ideas and technical help. We are serious about this.

We will be counting on your deep experience to help us achieve comprehensive tax reform. Over the past 2 years, this committee has been moving steadily forward on tax reform. America's tax code has become too complex for both individuals and businesses, and the rules have not kept pace with today's transactions. The last tax code overhaul was in 1986.

Our world economy has changed drastically in the past few decades. Our tax code has not caught up and is now acting as a drag on America's economy. This is not some academic exercise. Tax reform is a real opportunity to spark the economy and create more jobs. As Secretary, I expect you to be a partner as we tackle tax reform.

Members of this committee are going to probably, Mr. Lew, ask you some tough questions. That is our right, and that is our responsibility. That is our role. In fact, I will ask you to address my concerns that the administration is being distracted from what should be the main focus, that is, job creation. We will get to that in a minute.

I am confident that, in the tradition of this committee, the questions of course will be respectful, and these questions will focus on how we can best move our country forward, representing the people whom we serve.

Mr. Lew, welcome. As you follow in Secretary Gallatin's footsteps, I encourage you to embrace this challenge as you chart your own path forward at Treasury, pending your confirmation. Recognize the great responsibility you have to ensure our government and finances are sound and help us remain the great world power in this competitive economy.

[The prepared statement of Chairman Baucus appears in the appendix.]

The CHAIRMAN. Senator Hatch?

OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM UTAH

Senator HATCH. Well, thank you, Mr. Chairman. Welcome, Mr. Lew, and our old colleague Senator Domenici. We are so happy to

see you here, and remember all the great work that you did here the whole time you were here. And of course, Senator Schumer is one of our great leaders in the U.S. Senate.

I also want to welcome the new members of our committee on both sides. I think you are going to enjoy this committee. It is a very, very important one, and we look forward to working with all of you.

Thank you, Mr. Chairman. I want to thank Mr. Lew for joining us here today, and I look forward to hearing Mr. Lew's testimony today and finding out more about his knowledge, his background, and his qualifications for this important position in the President's Cabinet. I agree with you: it is an extremely important position. As we all know, the U.S. Treasury Secretary is charged with a variety of responsibilities.

Mr. Lew, I know that you are well-versed in budget matters, but those are not the main responsibilities of the Treasury Secretary. I believe that I already have a good understanding of your budget views, including your opinion that we need higher taxes and much more revenue to address our Nation's fiscal problems.

I also know about the Obama administration's reluctance, which I assume you share, to engage in structural reforms to our entitlement programs, even though they are main drivers of our debts and deficits, although I was pleased with some of the President's remarks in this area last evening.

I do not share your views on some of these matters and neither, in my opinion, do the American people. And, as a Social Security and Medicare trustee, the Treasury Secretary cannot simply hope these problems will go away.

But the Treasury Secretary has responsibilities that extend far beyond the budget. These responsibilities include: implementation of financial regulations; oversight of financial stability; debt management; tax collection; oversight of economic sanctions; defense of the value of the U.S. dollar; disbursement of payments; implementation of certain housing policies; assisting Congress with its oversight responsibilities; and, to finish with this one, an oversight of entitlement trust funds.

So, while I admire your budget prowess and understand your views on fiscal policy, I know far less about your knowledge and experience in many of these other areas. I hope to learn more today. There remains a large amount of uncertainty in financial markets from the as yet unknown aspects of Dodd-Frank.

Hundreds of Dodd-Frank rulemaking requirements are either still in the works or have not even been proposed yet. Meanwhile, lobbying continues, with hundreds of meetings having occurred between banks and their lobbyists on the one hand and Treasury and other regulators on the other. Whoever becomes the next Treasury Secretary ought to have a firm grasp of financial markets and risks to stability to our financial system.

Dodd-Frank assigns responsibility for assessments of, and warnings about, threats to financial stability to the recently created and largely non-transparent Financial Stability Oversight Council, or the FSOC, which is chaired by the Treasury Secretary.

In addition, the Secretary of the Treasury plays a key role in the international financial sphere. This is an area where we have seen

a real lack of leadership, in my opinion, from our administration. With no real U.S. economic leadership, the world is left with a policy vacuum. If the United States does not lead, other nations will. Recent analysis shows that China has now surpassed the United States as the world's largest trading nation.

Furthermore, the risk of international currency wars—at least it appears to me—is rising, which could push the U.S. back into a recession, or worse. Statements by U.S. political leaders at international conferences about currency policy are not enough. Without a clear policy and a coherent strategy to advance that policy, the international monetary system will continue to be adrift. Our future economic competitiveness depends upon the United States leading efforts to establish a fair, stable, and transparent global financial and currency system based on market principles.

Now, I look forward to hearing your views about these important matters before the Treasury and your plan of action if you are to be confirmed. In addition, I understand you worked as managing director and chief operating officer of two units of Citigroup, but it is unclear what your exact roles and responsibilities were there.

So far, you have indicated that you coordinated operations, technology, human resources, and maybe legal and financial activities, but we know very little about your knowledge of the activities and practices of the units for which you were the chief operating officer.

Some of the units' activities include proprietary trading, along with sales and marketing of risky investments. If you knew about the marketing and sales of these investments it would be instructive for us to know, or to find out what you knew.

If you did not know much about them, then it would be instructive for us to find out why and to determine exactly what your responsibilities were during your years at Citi when you were well-compensated, including times when Citigroup was being propped up by American taxpayers.

Now, these are important questions because, if you are confirmed as Treasury Secretary, you will be responsible for overseeing the implementation of regulations directed at some of the very practices undertaken by the Citi units that you once operated. For example, as Treasury Secretary you will be responsible for coordinating implementation of the so-called Volcker rule, which is intended to separate proprietary trading from federally insured financial activities.

You have stated that you support the Volcker rule, yet you were the chief operating officer over two units that engaged in the sort of activities that the Volcker rule is meant to prevent. Therefore, if you were to be confirmed, it could lead to an awkward situation in which, in your role as chair of the FSOC, you would be effectively saying to financial firms, do as I say, not as I did.

Now, these are not trivial matters. Indeed, they bear directly on your qualifications to serve as the next Treasury Secretary. If the committee was given time to examine your record more thoroughly before today's hearing, I am sure many of these questions would have already been answered. As it is, we will have to explore some of these matters here today.

Finally, I just wanted to mention that, when we met to discuss your nomination, I told you that I was very dissatisfied with the

Treasury Department's level of responsiveness to our letters here, both the chairman's and mine, as well as letters from my colleagues. You pledged to me to "maintain frequent consultation with members of this committee." I do appreciate that promise and want you, if confirmed, to be responsive in a timely manner.

Once again, welcome to the committee. We are pleased to have you here. I want to thank you for your willingness to serve. I want to thank you for your past service. There is no question in my mind you are a very bright and able person.

Mr. Chairman, I look forward to what I hope will be an informative hearing. Thank you.

[The prepared statement of Senator Hatch appears in the appendix.]

The CHAIRMAN. Thank you, Senator. Thank you very much.

Senator Schumer and Senator Domenici have asked to introduce the witness, but before they do, Mr. Lew, I would like to give you the opportunity to introduce your family.

Mr. LEW. Thank you very much, Mr. Chairman. I would like to introduce my wife and my daughter, who are with me here today. My wife Ruth, my daughter Shoshana. My son Danny and his wife Zahava and my grandchildren could not be here today, but I am very happy to have my wife and my daughter with me.

The CHAIRMAN. Well, stand up so we can all recognize you and show our appreciation. [Applause.]

These jobs are a huge sacrifice. It takes a lot of understanding and tolerance from the whole family, because they are so time-consuming.

Senator Schumer?

OPENING STATEMENT OF HON. CHARLES E. SCHUMER, A U.S. SENATOR FROM NEW YORK

Senator SCHUMER. Thank you, Mr. Chairman. Thank you and Ranking Member Hatch, members of the committee, for the opportunity to introduce Jack Lew and for moving this nomination in a timely manner.

I am delighted and proud to introduce to this committee my friend and a great New Yorker, Jack Lew. No matter how many years he spends in Washington, Jack, who grew up in Queens, the neighboring borough from the one in which I live, and Ruth, his wife, who grew up in my congressional district, will always have New York in their bones.

I am delighted to endorse Jack's nomination to serve as the next Secretary of Treasury. I do so wholeheartedly and without any reservation. Jack is an accomplished public servant, renowned for his economic acumen, managerial prowess, and his common-sense approach to solving tough problems. He is uniquely qualified to take the helm of Treasury in these precarious economic times, as you so well outlined, Mr. Chairman.

Jack is no stranger to many of us in this room. He and I first met 3 decades ago when I was a wide-eyed freshman Congressman and Jack was a top aide to House Speaker Tip O'Neill. We became friends. He and his colleague Ari Weiss took me and our little group under their wings and taught us a whole lot.

I know that Tip had a tremendous influence on Jack, and it is clear that Jack shares the late Speaker's indefatigable work ethic and sense of duty. He shares another thing with Tip O'Neill: bipartisanship. Speaker O'Neill was renowned for sitting down at 5 o'clock with President Reagan and trying to work problems out, and Jack was heavily involved in that, and continues to be a bipartisan person who wants to, and is successful at, working with both parties.

You mentioned the issue of trust, Mr. Chairman. There is no straighter shooter than Jack Lew. He is one of the most honorable, honest, and decent men in Washington. When he gives you facts, they are backed up with research; when he gives you numbers, just the same.

From the time I knew Jack when he started in Tip O'Neill's office, he would always outline both sides of the argument and give each without bias. He would then tell you where he came down, but he always let you make your own judgment. That has propelled him to an extremely successful career that so well qualifies him to be Treasury Secretary.

He joined the Clinton OMB in 1994 and distinguished himself, not only as a knowledgeable policy wonk adept at navigating the intricacies of the tax code and the Federal budget, but also at the same time as an agile leader with a knack for operations. He rose to become OMB's Chief Operating Officer and then, in 1998, was named Director.

When Jack left OMB at the end of the Clinton administration, it was the last time the Federal Government had a surplus, an unprecedented surplus, of $236 billion. It would not have happened without Jack Lew's leadership, knowledge, and expertise.

In 2009, Jack once again answered the call to public service and returned to DC to become Deputy Secretary of State for Management and Resources, helping Secretary of State Clinton transform the State Department and honing his skills in the international arena, skills which I am confident will prove useful as he works to address the myriad global economic challenges he will be confronted with in his new role as Treasury Secretary.

And, as we all know, Jack spent the last 2 years serving the administration in a second stint as Director of OMB and as White House Chief of Staff. During his tenure in these positions, he has ably guided negotiations on a range of fiscal issues.

Passage of the bipartisan Budget Control Act while he ran OMB brought annual non-security spending to its lowest level as a share of the economy since Dwight Eisenhower sat in the Oval Office. The recent end-of-year agreement on the fiscal cliff has kept taxes low on the middle class and at the same time decreased our Nation's deficit by more than $700 billion.

Now, there are many, many subjects a Treasury Secretary must cover, and not any Treasury nominee can have expertise immediately in all of them. But Jack has an uncanny ability to delve into a subject, learn it, study it, and master it in a factual and nonideological way. So I look forward to working with Jack and the rest of the President's economic team as we continue to focus on protecting the middle class and combating our Nation's long-term economic challenges.

Mr. Chairman, in conclusion, I am confident this nominee possesses the expertise and work ethic necessary to excel as the Secretary of Treasury. He will not be an ordinary or just workmanlike Treasury Secretary, he will be a great one, in the mold of Albert Gallatin and of Alexander Hamilton, another New Yorker, one whom I never knew unlike, hopefully, this one.

I fully support this nomination and urge that we move as quickly as possible so that the Senate can confirm this nominee and Jack can get on with the important tasks necessary to continue moving this country forward economically.

Jack, I congratulate you on your nomination.

The CHAIRMAN. Thank you, Senator.

Senator Domenici?

STATEMENT OF HON. PETE DOMENICI,
FORMER U.S. SENATOR FROM NEW MEXICO

Senator DOMENICI. Thank you very much, Mr. Chairman. I am, likewise, very pleased to be here. I think most of you know I left the Senate because I was told I should by an eminent doctor, and I have outlived the doctor. [Laughter.]

In any event, it is very nice to be here and to feel good enough to come and talk to you. Senator Schumer, it is nice to be with you.

Senator SCHUMER. Thank you.

Senator DOMENICI. And it is also nice that you left me enough time to express my views, and I thank you for that.

In any event, I want you to know that I was sitting up in a little restaurant in Santa Fe, NM with some of the members of the State House, and I got a telephone call from somebody whom I could not understand; there was lots of noise. If he was not such a wonderful guy, he probably would have dumped me overboard, because I kept insisting, who are you? I can't get it. What are you doing?

And finally, after three or four times and exerting himself, he got it out that he was trying to tell me that he would like me to come here today and introduce him. When it finally came out, I said, why didn't we do this a long time ago? I did not understand, I apologized, and he is still my friend.

I want to say to all of you, Senator Hatch: Mr. Chairman, first, that was an eloquent statement. I happen to be a fan of Hamilton. The next gentleman after him probably did more in the broad sense. He probably had problems. The second one that you alluded to had problems like the ones our friend Jack is going to handle. But I am honored. I am very honored to endorse his nomination to serve as the next Secretary at this critical moment in our Nation's history.

Currently, I am a senior fellow at the Bipartisan Policy Center, established a few years ago by former Leaders Senators Dole, Baker, Mitchell, and Daschle. It is bipartisan, not nonpartisan. I am a proud Republican. I am also a former chairman of the Senate Budget Committee, which many of you also serve on. I completed my career here as chairman of the Senate Energy and Natural Resources Committee.

I will say, moving away from my prepared remarks, and saying to Senator Bennet, you may not think you are getting old, but clearly I am. I remember that we had a Bennet who was Chief of

Staff of the Budget Committee, and I was very young and on the bottom, bottom chair. Guess who that Chief of Staff was? He had the same name you do. He happened to be your father. What a terrific thing, to come here and see you today after that experience. It is great to be with you.

This committee, as Senators know full well, has jurisdiction over 50 percent of the Federal budget. If we are to put the country on a sustainable fiscal path for the future, this committee will play a critical role in achieving that goal, working with the President and particularly with the Secretary of Treasury.

So, as you confront the fiscal challenges ahead, I cannot think of anyone more qualified or more ready for this job than Jack Lew. He not only understands the challenges our country faces, he has the experience and judgment to confront them. As many here know, Jack has been a dedicated servant for many years, a servant of the people.

But what many here may not know is where the dedication that he has originates. I think it originated from Jack's father, who was born in Poland and came to America at the end of World War I. His mother's family made this journey from Europe to America just a few years later. You would say that Jack's parents were among the fortunate ones: they left Europe before it was too late. With that good luck came a deep love for the United States, a country that was for them synonymous with freedom, hope, and opportunity.

The bulk of Jack's career has been spent in public service, beginning here on Capitol Hill in 1973. I first encountered Jack briefly when he was Speaker O'Neill's liaison to the Greenspan Commission, which negotiated a bipartisan solution to reform Social Security in 1983. Anyone who does not think that was a major, major reform, just go back and read it, and go back and look at the facts.

From that dedication, of which he was part of, a giant step was taken to make Social Security solvent for 20, 30, 40 years. That is something real, not something just to talk about. He has earned the trust of two presidents. He has overseen the budget of the entire executive branch in two administrations.

I know this firsthand. During long and difficult budget negotiations in the 1990s, we worked together to reach an honorable compromise and balance the budget. I can say without equivocation that Jack was always willing to listen, to work with members of both parties, to seek and find common ground.

As my friend and colleague in the Bipartisan Policy Center, Alice Rivlin, has said, "Jack is a very fair person." Former Secretary of the Treasury Bob Rubin wrote me to say that Jack has the ability to understand complex matters quickly and well, very good judgment, and the ability to work effectively with the administration, colleagues, and members of Congress.

That was told to me by Bob Rubin, qualities all that our next Secretary of the Treasury is going to have to have if we are going to pull our country out of the fiscal mess we are in. We talk about job creation. It is clear to me that we will get real job creation when we get real deficit reduction, but I am not here for that. I am here on a personal note. I have found Jack to be a man of in-

tegrity. He works hard and can be tough. As a negotiator, he is awfully tough.

But when the time comes to settle, things are settled. He believes in playing it straight. We have had differences of opinion over policies, but we have always been able to work through them. Again, quoting Alice Rivlin, "The press keeps asking me for funny anecdotes about Jack, knowing that I had worked with him over many years." Alice continues, saying this: "The truth is," she says, "Jack isn't a funny anecdote guy." [Laughter.] "He's just an able, dedicated, straight shooter. I guess you can't be both." He definitely, of the two, chose the right one. Congratulations on being a straight shooter.

From my current position at the Bipartisan Policy Center, we look forward to working with Jack in the months ahead and share views on reigning in the health care costs in a fair way and reforming our tax code to make it a growth-oriented taxation.

Mr. Chairman and members of the committee, I know that Jack is a decent man, a serious policymaker who has all the right mixes of qualifications, knowledge, and vision to serve as the next Secretary of the Treasury. It is my hope that you will approve his nomination swiftly. It is a pleasure to be with you all and with him. Congratulations. Thank you.

The CHAIRMAN. Well, thank you, Senator. Thank you, Senator Schumer, thank you, Senator Domenici, very, very much for those glowing statements. We all appreciate them. I am sure Mr. Lew especially appreciates it. Thank you very, very much.

Mr. Lew, as you know, our usual practice here is for statements to be submitted into the record but for persons to summarize—briefly summarize—their statements for about 5 minutes or so. But if you want to speak a little longer than 5 minutes, take your time. This is a very important position. Why don't you proceed?

STATEMENT OF HON. JACOB J. LEW, NOMINATED TO BE SECRETARY, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Mr. LEW. Thank you. Thank you very much, Mr. Chairman, Ranking Member Hatch, and members of the committee. It is a real privilege to be considered by this committee as the President's nominee to be Secretary of Treasury.

I would like to thank Senator Schumer and Senator Domenici for their very gracious and kind introductions. It has been my great fortune to work with both of them over many years, and I am honored that they were here this morning.

I am especially thankful to my family: my wife Ruth and my daughter Shoshi, who are here today; my son Danny, my daughter-in-law Zahava, and my grandchildren. As you noted, public life demands much from our families, and I deeply appreciate the support and sacrifice over many years of long days and missed family time.

While my parents are only with me in spirit today, I know I sit here because they nurtured me in lasting values and an enduring commitment to serve our country. I am grateful to President Obama for asking me to lead the Treasury Department. It has been my honor to serve in his Cabinet and as his chief of staff, and I am humbled by his continued faith in me.

Finally, I want to thank the members of this committee for meeting with me over the last weeks and for sharing your insights. This committee plays a singular role in defining our tax, trade, health care, and Social Security policies. With a long history of collaboration, this committee is a clear example that bipartisanship can thrive and produce real results for all Americans. I pledge that, if confirmed, I will maintain frequent consultation with you in accordance with that spirit of respect.

Forging bipartisan consensus is not an abstract idea for me. It is the fundamental thread that spans my professional life. Early in my career when I worked for the great Speaker Thomas P. O'Neill, Jr., I took part in negotiations that led to the historic agreement with President Reagan to save Social Security. Under President Clinton, I helped negotiate the groundbreaking agreement with Congress to balance the Federal budget. As Budget Director, I oversaw three budget surpluses in a row.

My experience in senior leadership positions outside government at New York University—where, I might add, the highest honor the university has is the Gallatin Award, after Albert Gallatin who also founded NYU, which is the largest private university in the United States and its city—has proven to me that working collaboratively to solve problems and drive change is a universal challenge.

In my return to public service in this administration, I worked alongside Secretary Clinton to promote our national security and international economic policies around the globe and to reinvigorate America's leadership abroad.

At the Office of Management and Budget, I pursued sound fiscal policy by working with Democrats and Republicans to pass the Budget Control Act, which has reduced Federal discretionary spending to historically low levels.

Finally, as the White House Chief of Staff, I adhere to the principle that we best serve the American people when we find common ground to move the country forward. We saw that principle in action most recently when the administration and Congress acted together to protect the middle class from sweeping tax increases that could have thrown our economy back into recession.

Because of my experience, I approach the challenges that lie ahead with a clear understanding of their complexity and significance. That has also given me a profound respect for Secretary Geithner and for the women and men of the Treasury Department whose remarkable record of accomplishment I would like to acknowledge today.

When President Obama came into office, economic conditions were the worst our Nation had seen since the Great Depression. The President moved quickly to break the back of the financial crisis, to reignite growth, and because he, along with Congress, responded with great speed and force, our economy is in better shape today.

Over the past 4 years, the private sector has created more than 6 million new jobs. Taxpayer money that saved the financial system has been mostly repaid. Rules are in place so that the financial system is safer and taxpayers are not responsible if a big firm fails

again. The housing market is recovering, and home values are stabilizing.

We have isolated Iran from the global financial system and established the toughest sanction regime in history. We have signed a series of trade agreements to open the markets for American goods and level the playing field for American workers and businesses. Our auto companies are once again growing, innovating, and creating jobs, and we have made substantial progress reducing our deficit in a balanced way.

So we are in a better position today, but the work to create a sounder economy and a safer world remains unfinished. Our top priority is to strengthen the recovery by fostering private-sector job creation and economic growth while we make sure our economy remains resilient to the headwinds from beyond our shores.

That means making it easier to sell American-made goods abroad and expanding manufacturing in the United States. It means working with our partners around the globe and through the G–20 to bolster the international financial system and promote global economic stability. It means moving forward on financial reforms so that the system is less vulnerable to crisis, with greater protections for investors and consumers, and it means reforming the tax system so American businesses can thrive and compete.

At the same time, we must put our Nation back on a path of fiscal sustainability. Over the past 2 years, we have locked in $2.5 trillion in deficit reduction through spending cuts and revenue increases, and we can do even more to shrink the deficit over the next decade through a balanced mix of spending reductions and tax reforms and sensible reforms to Medicare that will help the program stay sound in the future.

But even as we move forward with deficit reduction, we need to make certain there is room for critical investments in education, research, and infrastructure, things that we need to grow and compete globally. We also have to avoid doing anything to degrade our national security or derail the economic recovery through abrupt moves in the short term. That is why we cannot allow the series of harmful automatic spending cuts known as the sequester to go into effect. These cuts would impose self-inflicted wounds to the recovery and would put far too many jobs and businesses at risk.

In closing, I would like to make one final observation. In recent years, some have argued that Washington is broken, that our government cannot tackle the Nation's most serious problems, and that bipartisanship is a thing of the past. I disagree. I have reached across the aisle to forge honorable compromises my entire professional life.

I have been involved in almost every major bipartisan budget agreement over the last 30 years, and I can honestly say that the things that divide Washington right now are not as insurmountable as they might look. We all share the same goals: we want an economy that is expanding; we want a private sector that is robust; we want a vibrant job market that gives anyone who works hard the chance to get ahead; we want a financial system that helps families save and channels investment to support innovation and entrepreneurs; we want a strong housing market; we want a global economy that is prosperous, inclusive, and secure; we want a vigorous

manufacturing base and a level playing field for American companies; and we want a government that lives within its means. It is going to take a lot of hard work to achieve these goals. We have plenty of obstacles, but I have no doubt that we will work together to find solutions to today's challenges.

Mr. Chairman and members of the committee, I am grateful to you for considering my nomination, and I look forward to answering any questions you may have. Thank you.

The CHAIRMAN. Thank you, Mr. Lew.

[The prepared statement of Mr. Lew appears in the appendix.]

The CHAIRMAN. I have several questions here that are obligatory questions we ask of all nominees. First, is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. LEW. No, Mr. Chairman.

The CHAIRMAN. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. LEW. No, there are none.

The CHAIRMAN. Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress, if confirmed?

Mr. LEW. Yes, I do.

The CHAIRMAN. And finally, do you commit to provide a prompt response in writing to any questions addressed to you by any Senator of this committee?

Mr. LEW. Yes, I do.

The CHAIRMAN. Thank you.

I would like your thoughts on tax reform. As I mentioned in my statement, everyone knows the country, the world, has changed dramatically since 1986. I believe that we must, and this committee is going to, engage in substantive, comprehensive tax reform. It is our duty, it is our obligation; it is also our opportunity.

I would like your thoughts on the visions we should focus on, actions we should take. I would like you also to tell us how you are going to be working with this committee as we reform the code. What would you focus on first and second? Your thoughts on tax reform.

Mr. LEW. Mr. Chairman, I think tax reform is an extremely important priority, and, if confirmed, I would look forward to working with this committee on a bipartisan basis to help make it happen. I was involved in 1986 tax reform; I know how hard it is. I also know how important it is.

When one leaves Washington, you do not have to talk to very many people to learn that the American people want tax reform. They want a simpler tax code; they want it to be easier for them to comply with the taxes on an individual basis and know that it is fair and that everyone is treated in a similar way in a similar position. As businesses, they want to be able to go about the business of business without having to worry about complicated tax accountant and lawyer consultations.

Now, it is hard, because the way to do tax reform is to broaden the base and lower the rates. But broadening the base means taking on a lot of very entrenched interests, and lowering rates is a benefit to everyone but not concentrated with anyone individually.

I think we can do it. I think it is important that we do it. It is important for competitiveness; it is important for manufacturing and job creation. It is important in terms of our international competitiveness. I think it is something that there is a bipartisan consensus that we need to do, but there is an understanding of how hard it is. I would pledge to work with this committee to try to get that job done.

The CHAIRMAN. Could you speak a little more about base broadening? What areas do you think are areas that we should focus on? Then you also mentioned that the base broadening should be used to lower rates. If you could talk a little about that, I would appreciate that—a little more detail.

Mr. LEW. Senator, I think that, on the individual side, it is a very hard thing to do, to broaden the base, because it is taking a look at things that are very much part of the fabric of how people live right now. But, as in 1986, that is the way you can go about tax reform. It is a little harder than in 1986 because we have not completed the work on the fiscal plan.

We need to have some more revenue as part of a fiscal plan, so tax reform is going to have to be done in an environment where, as we broaden the base, we both contribute to deficit reduction and hopefully are able to lower rates.

On the business side, we have a contradiction in our business tax system. Our statutory rate is very high. Our effective rate is not as high. So, when you look at the United States competitively against other countries, statutory rates make it unattractive to look at the United States versus other places, on some occasions.

For individuals, individual firms, their average tax rate is much lower because of all the complicated provisions—deductions, credits—that are part of the code now. It will be a challenge to take on those individual deductions and credits, but there is no other way to bring the rate down, which is something that I think we need to do to maintain our competitiveness abroad.

The CHAIRMAN. So, even though our effective rate might be different than the statutory, you still believe it is good to proceed, go down the road of corporate reform, reduce a lot of those tax expenditures in order to get the rate down?

Mr. LEW. I do, Senator. I think that, when one looks at a table of international tax rates, it stands out that the U.S. statutory rate is very high. It is a much more complicated story to tell that the average rate is lower. It does not affect all businesses equally. In order to get that lower average rate, one has to take advantage of complicated special tax provisions. We can have a simpler tax code.

The CHAIRMAN. I do not have a lot of time here. But if you could just briefly comment on something that has been in the press, and that is your investment in the Cayman Islands. What was it, how did that happen? Why did you choose that investment? What benefits did you receive?

Mr. LEW. Senator, while I was an employee at Citigroup, I had the opportunity to make an investment in a venture capital fund,

a private equity fund, that was designed to invest in emerging economies around the world. It was an opportunity that looked to me to be a bit riskier than other investments I had made in the past. I have had a very conservative personal investment philosophy. I thought it was an appropriate risk to take, given the possibility of a higher return.

I invested in the fund as an employee, and I divested from the fund when I was confirmed for a position in the Office of Government Ethics and they recommended or directed the divestment. My benefit was really very small, in the sense that I took a loss when I sold the investment. I always reported all income. I always paid any taxes that were due.

The CHAIRMAN. Why was the investment in the Cayman Islands?

Mr. LEW. Senator, I actually do not know how it was organized. I was not involved in setting up the fund.

The CHAIRMAN. Did you know at the time it was the Caymans?

Mr. LEW. You know, at the time I invested, I was aware that it was an international fund investing in emerging markets. I knew that much of the personnel for the fund was based in London. I actually did not know at the time what the address of the partnership was.

The CHAIRMAN. And when did you divest?

Mr. LEW. I divested in 2010, when I became OMB Director. The fund was disclosed in all of my prior confirmations and all of my SF 278s. I am not aware of any tax benefits that I got from participating in it. It was an investment.

The CHAIRMAN. But did you pay taxes on that investment?

Mr. LEW. I reported all income related to the investment on my tax forms. I have paid all my taxes.

The CHAIRMAN. But did you earn taxes on that?

Mr. LEW. I lost money on the investment. In fact, I lost money, so I did not have a great deal of income.

The CHAIRMAN. All right. Thank you.

Senator Hatch?

Senator HATCH. Well, thank you, Mr. Chairman. I appreciate it.

Following the financial crisis, many lessons were learned by many financial firms, including Citigroup, that have taken actions to improve their performance, operations, and responsibilities.

My questions about Citigroup to you, Mr. Lew, relate to the time you were there and not to current Citigroup operations. Frankly, I do not believe that I have a good understanding of your responsibilities as managing director and chief operating officer at Citigroup units.

Now, you have said to our staff, I believe, that you were not involved in investment-level decisions or portfolio management. However, while you may not have selected assets that Citi invested in or managed any portfolio, Citigroup organization charts seem to identify that you were tied to investment research, investment, and other such activities like liquid and illiquid operations.

During your time on Wall Street, it was not clear to me whether risky securities that were alleged to have been misleadingly marketed and sold to investors were handled by the units that you oversaw. Those securities include a collateralized debt obligation, or CDO, called Class V funding, which the SEC has alleged was

a product that Citi misrepresented, sold to collect fees, and then bet against.

Other risky securities that may have been marketed and sold by a unit that you oversaw include funds called ASTA, MAT, and Falcon, which some allege were misrepresented to have been far safer than they were.

Now, Mr. Lew, you have said that you were responsible for operational activities and management with little or no knowledge of investment activities of the very units that you staffed.

Now, I find that somewhat confusing. Some Wall Street participants have—cynically, in my view—labeled your position at Citi as a political trophy position, and I hope we can provide some clarity here to disprove that view.

Now, I have four questions about your Citigroup role at the time you were there. Perhaps you should get your pencil ready, because I am going to go through all of them, and then you can respond.

First of all, at Citi, did you have any discussions or participate in any e-mail exchanges, including having been cc'd, on any e-mail regarding the Class V funding CDO, or the ASTA, MAT, or Falcon funds?

Second, did you get an understanding of bank risk-taking activities from observing activities in the units that you oversaw, or did you not know about any risky activities in your units?

Third, did you have any oversight role with respect to financial products that were marketed and sold by your units, and, if so, did you do anything to curtail risky activities, or did you not know about the marketing and sales products in the units that you managed, in which case I wonder specifically what you did do with regard to them?

And fourth, while managing to provide efficiencies at the units that you oversaw, did you use any services of Citigroup Global Services, which Citi's website calls "one of the largest providers of business process outsourcing services within the banking and financial services sector?" Those are the four questions I would like to have you answer, if you would take time to do so.

Mr. LEW. Thank you, Senator Hatch. Let me start with maybe answering the part about my role, because everything, I think, falls within that. I was chief operating officer, first of the Global Wealth Management business—that was for about 2 years—and then for about a year, the Alternative Investment Business.

As the chief operating officer, I was responsible for a number of broad-ranging management-of-the-business kinds of activities. I had substantial responsibilities in terms of a large national and international field organization system. I mentioned to Senator Baucus, one of the early trips that I took was to Billings, MT to visit our financial advisors, because I went around to make sure that our business was working on the ground.

In New York, I was responsible for the budget of running the business, which was a very large, as I say, national and international operation. I was not in the business of making investment decisions. I was certainly aware of things that were going on. I was working in a financial institution. I learned a great deal about the financial products, but I was not designing them, and I was not opining on them.

I take away from that experience a deep understanding that there are risks that we need to be very much on guard against, and I would be delighted to discuss those policy considerations as we go forward.

With regard to specific e-mails and phone calls, it is quite a number of years. I do not recall specific conversations. There was a very bad financial situation going on in that year. There were products that were widely understood to be troubled. So, yes, I was aware that there were funds that were in trouble. I did not have responsibility for the funds themselves, but I was aware that those difficulties were going on.

Senator HATCH. My time is up, Mr. Chairman.

The CHAIRMAN. Following the early bird rule, the next Senator on the list is Senator Schumer. He is not here.

Senator Grassley, you are next.

Senator GRASSLEY. Already?

The CHAIRMAN. Yes. After Grassley, it is Stabenow, Crapo, and Cantwell.

Senator GRASSLEY. Mr. Lew, on January 16, 2009, Citigroup announced losses of $18.7 billion, the same day Citigroup received a $301-billion Federal bail-out through a loan guarantee on its mortgage assets. One day later, you received a bonus from Citigroup for over $940,000 for your work as chief operating officer on the Alternative Investment Unit, which was responsible for much of the loss. Were you aware that Citigroup was about to receive a multibillion dollar Federal guarantee when you accepted your bonus?

Mr. LEW. Senator, I was aware of the condition of Citi and of the TARP program, yes.

Senator GRASSLEY. All right. Explain why it might be morally acceptable to take close to $1 million out of a company that was functionally insolvent and about to receive $1 billion of taxpayer support.

Mr. LEW. Senator, in 2008 I was an employee in the private sector. I was compensated in a manner consistent with other people who did the kind of work that I did in the industry. I was compensated for my work. I will leave it for others to judge.

Senator GRASSLEY. Now to something that President Obama has made a big deal about. On May 4, 2009, President Obama said about Ugland House, which is where you invested your money overseas, "On the campaign, I used to talk about the outrage of a building in the Cayman Islands that had over 12,000 businesses. I have said before, either this is the largest building in the world or the largest tax scam in the world."

You invested more money there than the average American makes in an entire year. Do you believe that the President was accurate in referring to the building which housed your investment as "the largest tax scam in the world?"

Mr. LEW. Senator, I am happy to answer questions about my own investments. I am also happy to answer questions about tax policy regarding the sheltering of income from taxation. I reported all income that I earned; I paid all taxes due. I very strongly believe that we should have tax policies that make it difficult, if not impossible, to shelter income from taxation.

Senator GRASSLEY. Well, there is a certain hypocrisy in what the President says about other taxpayers and then your appointment, but let me move on.

You have told Finance Committee staff that you were unaware of Ugland House and its association with tax scams. That makes me wonder where you have been for the last 8 years. The chairman of this committee, as well as a former Budget Committee chairman whose chart is behind us, highlighted Ugland House to the Nation several times. As I said, President Obama preached about it. It is no wonder that maybe you and the President have not proposed legislative solutions to what the President considers a tax scam.

So my question: how can you be the President's top tax enforcer if you have not heard of this offshore loophole?

Mr. LEW. Senator, this committee has reviewed my taxes for many years. I think it is clear that I reported all income that I have earned. I have paid taxes, as appropriate. I believe very strongly that people should pay taxes on their income. I have very strong views on how the tax code should be constructed to encourage investment in the United States, and I am happy to answer any policy questions you have.

Senator GRASSLEY. Do you think Ugland House ought to be shut down?

Mr. LEW. Senator, I am actually not familiar with Ugland House. I understand there are a lot of things that happen that are a problem.

Senator GRASSLEY. All right. Let me move on then.

Mr. LEW. Yes.

Senator GRASSLEY. A case filed in the New York State Supreme Court in which NYU, New York University, is the plaintiff, states that at the same time you were executive vice president, "New York University invested in the Ariel Fund, a Cayman Islands open-ended investment company created to be used for United States tax-exempt investors and foreign investors." Nonprofits sometimes seek to avoid paying taxes on unrelated business income through offshore vehicles like funds in the Cayman Islands.

So, question: while you were the executive vice president, did NYU have investments in the Cayman Islands to avoid taxes on unrelated business expense, and, if so, how many millions of dollars did NYU have invested in the Caymans?

Mr. LEW. Senator, when I was at NYU, I was not aware of any policy to invest in a manner that you describe. I was in no discussions regarding the Unrelated Business Income Tax. I was involved in discussions about making sure that the endowment was invested to have as good a return as possible, and the goal of the Investment Committee at NYU was to try to have a diverse portfolio that would help the university get income from its endowment.

Senator GRASSLEY. Well, I will close then with this conclusion since you are unaware of it. I take your word for it, but it is certainly a poor reflection on your tenure there if you did not know about these investments. You were paid over $800,000 more than the actual president of NYU to know what was going on, and I am surprised you did not know what was going on.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Next, Senator Stabenow.

Senator STABENOW. Thank you very much, Mr. Chairman.

Mr. Lew, welcome back. I understand this is your sixth confirmation hearing, so you are certainly a glutton for punishment. But we welcome you, and we thank you very much for your service. Mr. Chairman, I actually am optimistic, listening to the concerns about closing offshore loopholes.

I think we may have something here that we could do together to offset sequestration. I think it would be wonderful to work together on something that would close loopholes that clearly we are seeing bipartisan concern about today, which I would love to work with members on.

I would like to talk to you about—no surprise—one of my favorite subjects, which is growing the economy with manufacturing. I was very pleased to hear the President's comments last night. We all know that, while we would love to have things go faster, manufacturing has been leading the recovery in growth.

When we look at tax reform and what we need to do to be competitive internationally and so on, I am very interested and concerned to make sure that we continue to make things in America and that we innovate in America.

So I wonder if you might speak to how we, in tax reform, encourage making things in America, American manufacturing, and things like the section 199 manufacturing deduction, how could we make it more effective, as well as the R&D credit. What would you see in terms of being able to continue to innovate and make things in America and focus on that in tax reform?

Mr. LEW. Thank you, Senator. I think that one of the real reasons for taking on tax reform—I would say the major reason for taking on tax reform—is to help grow the economy, create jobs, and improve the environment for manufacturing in the United States.

Right now we have a tax code that has a lot of provisions that benefit manufacturers of one kind or another, but they are quite complicated, they are quite particularistic, and overall we have a tax code which, when you look at it, suggests that we have a very high statutory rate for income.

I think that if we approach business tax reform from the point of view that our goal is to try to simplify the system, that is immediately going to help businesses, because right now businesses have to start by spending money on accountants and lawyers just to get started. We can simplify it to lower the bar.

Secondly, as the President outlined in his proposal last year, we ought to have a preference for manufacturing in the reformed tax code. I think that the challenge, as I mentioned in my response to the chairman, is going to be that we all know that a tax code which has a broader base and a lower rate is going to be one that makes it more attractive to invest in manufacturing.

But we also know that it is hard, that each of the individual provisions in the tax code is very important to one or another industry. It is going to require bipartisan consensus; it is going to require working together to do. It is in the greatest good of the economy and the American people, even if it does mean taking away some of the particular benefits that go to one or another part of the economy.

In particular, one of the things that we have focused on is, we should take away the incentives for things that—oil and gas exploration cannot move offshore. The resources are here. We need to look at, what is it that enters into the business decision when you choose between locating in the United States or overseas, and have the tax code be helpful, not hurtful, in terms of locating in the United States.

One of the things that has been very encouraging in the last few years is that, even with the tax code as it is, more and more businesses have been deciding they want to invest in the United States. The quality of our workforce, the stability of our system and our economy makes the United States a very attractive place to invest. If we fix our tax code, there is no limit to how much we can grow.

Senator STABENOW. Just to emphasize that, we have about 17 million people who work in this country because of manufacturing, 16 million because of agriculture. If we focus on making things and growing things, that really is the foundation of the economy.

One final question on the foreclosure crisis. I believe there is much more to be done, even though things are improving. What would you like to see done?

Mr. LEW. Senator, we have worked very hard over the last 4 years, pursuing multiple paths to help homeowners either refinance or modify their loans. One of the things that we very much would like to do, which the President addressed last night in the State of the Union address, is to enable homeowners who are paying their bills, who are under water through no fault of their own because of the financial crisis, to be able to refinance their loans.

Right now, you have homeowners who are locked into 6, 7, 8 percent mortgages when they should be able to get 3.5 or 4 percent mortgages. We ought to be able to do that on a bipartisan basis.

Senator STABENOW. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Senator Crapo?

Senator CRAPO. Thank you very much, Mr. Chairman.

Mr. Lew, I appreciate having you here with us today. I want to continue to focus on tax reform, as we did in our private discussions. As I have shared with you, in my work with the Bowles-Simpson Commission and in other areas of trying to address putting together a comprehensive deficit reduction package and debt reduction package, I view tax reform, as I have heard you say today, to be a key part of that, not because of the need to raise revenue, which is where you and I may have some disagreement, but because of the need to generate growth and have a pro-growth element in the recovery effort for our country in dealing with our debt crisis.

That is, I think, the first part of the question I want to ask you. I think you have already answered it, but I want to get it very clearly on the record. To me, in the last few months the discussion over tax reform has taken, in some cases, a concerning turn.

I have heard the term "tax reform" used all too frequently to mean a revenue-generating device. I understand it can be utilized to generate revenue, but please tell me why, again, you believe tax reform is needed in our economy.

Mr. LEW. Thank you, Senator. As I think we discussed in the conversation we had, I considered it a lost opportunity in December and January that we did not get to a final agreement on our fiscal challenges so that we would be able to debate tax reform after resolving the fiscal challenge. I think that there is still more work to be done in terms of the fiscal path, and we need more revenue to be part of it.

I think that, separate from that, there is a need to do tax reform. In clearing out the tax code and broadening the base, there is room to raise the revenue that we need. Just a few months ago, there was a lot of discussion as to whether or not we should raise tax rates or raise revenue by broadening the base.

Well, we did the tax rates. We did not broaden the base. So there is room in the conversation for both, and I would look forward, on a bipartisan basis, to achieving the goal, both of being on a sound fiscal footing and, equally importantly—perhaps more importantly in terms of the long-term growth of the economy—having a tax code that makes sense for individuals and businesses so that we have a thriving investment environment.

Senator CRAPO. I agree with that. I think that we would have been hard-pressed to create a tax code, if we tried, that was more unfair, more complex, more expensive to comply with, and frankly more anti-competitive to our own business interests, than we have now. We need to correct that, and I look forward to working with you in partnership on that.

I would like to get into a little bit more detail. If you look at the corporate side—and you have discussed the need to lower the statutory rate, and I agree—do you have a target rate in mind? I know a lot of us have talked about 25 percent, at least a level of 25 percent, that we need to reach.

Mr. LEW. The challenge, Senator, is how far we are willing to go in broadening the base. We do not have the ability to lose revenue as we go through business tax reform. I think it is challenging to get all the way to 25, but I think the more aggressive we are at broadening the base, the more progress we will be able to make at lowering the rate.

Senator CRAPO. Do you agree that, on the corporate side, we should be revenue-neutral? My understanding is that in the past we have focused on at least the corporate rate reform being revenue-neutral.

Mr. LEW. I think the primary goal in business, corporate tax reform, is to have the tax code be simplified and to be consistent with a more robust investment environment, particularly as we are in a competitive environment with other countries. I think it can be done in a revenue-neutral way. I do not believe we have the ability to raise the revenue that we need to deal with our fiscal problem and have it cost revenue as we go through business tax reform.

Senator CRAPO. And with regard to business taxation, many have made the argument—and I tend to agree with it—that we need to pay very close attention to the individual code with regard to its impact on business taxation. Do you think we can do corporate reform without also doing individual tax reform?

Mr. LEW. Senator, I think we could, but I do not think it would be the best way to do it. I think the best thing would be for us to

do both individual and business tax reform. We do have a combination of different forms of business organization.

The closer we get to a place where the corporate tax system is one that is open for more business, the more competitive we will be, but we need to keep both in play. I mean, right now the challenges are many, but I think, once we are doing tax reform, we should do it right and we should do both.

Senator CRAPO. I wanted to get into some Dodd-Frank issues, but I see my time is running out. One last, quick question on the corporate reform side. Are you open to negotiating a competitive territorial system in the corporate code?

Mr. LEW. Senator, I think that, as we lower our rate, we ought to be looking at having kind of a minimum world-wide tax rate where we are trying to level the playing field. We actually have a debate between whether we go one way or the other. We have a hybrid system now, and it is a question of where we set the dial. I think that there is room to work together on this.

Senator CRAPO. Thank you.

The CHAIRMAN. Thank you, Senator.

Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman.

Congratulations, Mr. Lew, on your nomination. It is great to see your family here today. I definitely have a lot of fiscal/financial questions for you. But you spoke in your opening statement about Medicare and getting the delivery system right. The President, last night, mentioned that in his State of the Union address, as well as focusing on quality as opposed to frequency in tests. I was curious. Were you involved as chief of staff in the discussion of implementation of the Affordable Care Act?

Mr. LEW. Senator, both in my time at OMB and as Chief of Staff, I did pay attention to the implementation of the Affordable Care Act. Enacting the law was a critical step, but implementing it is necessary in order for it to be in place.

Senator CANTWELL. Do you think that if there is a provision of the Affordable Care Act that is supposed to be implemented in 2014, that it should be implemented in 2014?

Mr. LEW. We have been working very hard to be on schedule with getting the exchanges set up and having the Affordable Care Act in place in 2014. Many departments have been involved in that in addition to the Department of Treasury: the Department of HHS, Department of Labor, Office of Personnel Management. It was not always easy, because we had to work mighty hard to get the funding to implement on schedule, but I feel we are in a pretty good place.

Senator CANTWELL. Well, there is one provision that is not being implemented, the basic health plan. I know the President has tried to express an opinion to help push things along, but I guess my question is, do you think if the Affordable Care Act specifies that the basic health plan should be implemented in 2014, that it should be implemented in 2014?

I guess I am also asking, is there a bias somewhere in the administration against lower-cost managed care delivery systems that the Act calls for in exchange for the exchanges? Is there a bias over there that somehow the Affordable Care Act means implementing

only those pages related to the exchanges and punting everything else, even though they have been more cost-effective delivery systems?

Mr. LEW. Senator, I am not aware of any such bias. I do know that there has been an enormous amount of work to get the exchanges set up and the various parts of the architecture. I would be happy to follow up and work with you on that specific issue and find out where it is in the queue and follow up on that.

Senator CANTWELL. I would greatly appreciate that. I think there is a very big concern on my part, and several other members', that somehow people may be asking States to forego what have been more cost-effective solutions for that population just above the Medicaid level and almost maybe even making it more expensive and pushing that population onto the exchanges as some Holy Grail. I can tell you that we think it should be implemented and should be implemented now, so I certainly will take you up on that.

I want to turn to financial issues. You and I have had a chance to talk, and we could talk for hours, but just so everyone understands your philosophy on the regulatory side of things, do you believe in the reimplementation of Glass-Steagall?

Mr. LEW. Senator, as we discussed when we had this conversation, Glass-Steagall had, over the years, become something of an anachronism. Much of the activity in the financial world had gotten beyond it. I think the problems we had leading up to the financial crisis were evidence that our financial regulatory system did not keep pace with the growing complexity of the financial system. I think Dodd-Frank was a critically important step to reasserting proper regulatory oversight of an industry that is critical to the health of our economy.

I think, as we go forward, we have to ask questions as we complete the implementation of Dodd-Frank. Are there more actions that are needed? They have to be actions that make sense in 2013. So I think going back—while I am a student of history, and New Deal history in particular is of great interest to me—I do not think it is just a matter of resuscitating a 1930s statute. It is a question of, what do we need to do to manage the financial changes now?

Senator CANTWELL. So I will take that as a "no." To that point, I do not see how you contain this issue, as we now see the CFTC and the treatment of swaps and futures as having different clearing measures. Are you not worried that that is going to provide more systemic risk as well?

Mr. LEW. I think that if you look at the issues, things like margin requirements for swaps, it is very important that we get on top of regulating things that create system risk. I did not mean to be answering the prior question "yes" or "no." I think it is just a little bit more complicated.

I think the question of, is there a need for any further consideration of financial regulation is one that just comes in sequence after implementing Dodd-Frank. I come to the issue open-minded, knowing that we cannot let what happened leading up to 2008 happen again. We cannot let a regulatory system become outstripped by the complexity and organization of a financial system which our economic life depends on.

Senator CANTWELL. Well, I will look for more discussion on that point, then.

There are two other issues I wanted to bring up. I just do not understand the administration's idea of capping the municipal bond tax deduction at 28 percent if we want to encourage more investment. One thing I do believe the Federal Government does is provide cheap capital whichever way, and when all these banks are putting all these monies into derivatives, you cannot convince me that they are really interested in the bottom line here. So to me, a policy on capping the municipal bonds at 28 percent, tax-exempt bonds—I am curious as to whether you are going to continue that policy.

Also, on the Foreign Investment and Real Estate Act, I am curious whether you think the Treasury Department is going to complete that IRS notice and take action that would help jump-start private investment.

Mr. LEW. Senator, the administration's proposal, which would have limited the value of deductions in the top tax bracket to 28 percent, was designed to try to restore some equity in the tax code and to generate revenue that we need for meeting our fiscal targets. It was not specifically directed at municipal bonds or at other specific areas of tax activity.

It was also meant to be a place holder, that we really should have tax reform, and we should make specific policies deciding what is in and what is out and what the proper tax rates are. But we put it in as a fall-back, saying that, if tax reform does not happen, this is something that would help us to get to the revenue targets we need.

I would be happy to follow up with you on these issues of the individual component parts of tax reform, but I would say, as a general proposition, that the hard decisions in tax reform will in many cases put us in places where there are things that many of us are sympathetic to where we have to curtail tax benefit if we are going to broaden the base. I think as a general rule, if there were a lot of easy decisions, tax reform would have happened a long time ago. I think there are going to be hard choices to make.

Senator CANTWELL. And so, on the foreign investment, is that something you are going to take action on? Are we going to have to act here?

Mr. LEW. My understanding is that those rules are progressing. If confirmed, I would pay attention to them and work on them and work with you to get them completed.

Senator CANTWELL. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

The next two are not here, so, Senator Thune, you are next.

Senator THUNE. Thank you, Mr. Chairman.

Mr. Lew, welcome. I want to come back to an area where I think there is room for Republicans and Democrats to work together, and that is the issue of tax reform.

What I have on my right here are the 1,300 pages that, the last time we did tax reform, the White House and the administration put forward in terms of their recommendations. In November 1984, May of 1985, it was Treasury I, Treasury II. We talked about this; I think you are familiar with these documents.

But contrast that with the paper that the White House, the administration, put out. This is 25 pages, basically. It is a corporate tax reform proposal. It is 25 pages, if you include the title page and the table of contents.

But my point, very simply, is the administration, I think, is going to have to do a better job of leading on the issue of tax reform if we are actually going to get something done on this issue. This goes into great detail of the myriad complex issues that we deal with in the tax code.

The President talked about, last night yet again, tax reform and the need for it, but he does not give us any details. He said he supports lowering rates for businesses that create jobs in America. I guess the question I would have for you is, does the President, when he says that, agree that rates need to be lowered across the board for all taxpayers? Because, as you know, there are lots of small businesses that file on individual tax forms and pay at the individual tax rates.

So should tax reform include the lowering of rates on individual taxpayers as well as the corporate rate, which I think you have already addressed with regard to Senator Crapo's question?

Mr. LEW. Senator, I think that to proceed on tax reform, we are going to have to work together, both the executive branch and the legislative branch, and on a bipartisan basis. If confirmed, it would be at the very top of my priorities to work with you and this committee to do that. In terms of the best way for an administration to engage, as we discussed in your office last week, I remember Treasury I and Treasury II. I still have the white books and the blue books. They, at the time, were important.

Tax reform in 1986 did not exactly follow either Treasury I or Treasury II. It was worked out by the two chairmen with the Secretary of the Treasury in the conversation, in the kind of regular-order process that I think we will need to follow again if we are going to succeed.

I remember not that long ago, when I produced a pile of paper roughly that size—and it was the Health Security Act in the Clinton administration—it did not lead to health care reform. When President Obama sent a much shorter document to Congress, it ended up going the full distance and getting enacted into law.

The goal is, how do we get something done? The means to the end I am very flexible on and would be very open to suggestions of how we could work constructively to both provide ideas and technical support. I think it is very important.

On the question of rates, we will have to work very hard to broaden the base, to lower the rates, and meet the revenue targets that we have, but I think it is possible. I think if we roll up our sleeves and we are willing to do the hard work, we can both get our fiscal house in order and work on the rate structure. It will all depend on how much we are willing to do.

Senator THUNE. Well, I guess I would just say—and I understand the whole issue of the health care reform legislation and the concern about too much specificity, but frankly this is not going to get done unless there is leadership out of the White House. This is a big issue. This is going to be very hard. There are lots of constituency groups out there that are very attached to the current tax

code. I, frankly, am one who believes that we need to do away with it.

Start by doing away with everything and do what Simpson-Bowles suggested, and that is, just come up with whatever those three rates are—8, 14, 23—and then figure out what we want to add back in and adjust the rates accordingly.

But I think the goal in all this should be getting the rates down, promoting economic growth. I hear the President talking about raising revenue through tax reform. To me, if you get economic growth, you will get new revenue, but you will get it the old-fashioned way and at the same time create lots of jobs and get this economy expanding again. So, that ought to be the goal. But I am suggesting that there has to be, I think, more leadership than this relative to this when it comes to this issue.

Very quickly, one other question. I raised this with you as well when we had our meeting last week. But the President, once again, I think, talks about entitlement reform. We have talked about the need to address what is the long-term driver of debt and deficits, and that of course is our entitlement programs. But again, there is just not the specificity there. The President has talked about $400 billion. If you think about $10 trillion in deficits just in the next 10 years, $400 billion looks like a drop in the bucket.

So I guess my question again is, where is the specificity when it comes to addressing what I believe—and I think what most of us agree—is a spending problem. I mean, revenues as a percentage of GDP in 2015 are going to be back up to 19.1 percent, and over the next decade they are going to average 18.9 percent, which is almost a full percentage point higher than the 40-year historical average.

We have revenue coming in. We have a spending problem. There is just no proposal that, in any meaningful way, addresses that. You look at the budgets that were submitted the last 2 years that got voted on in both the House and the Senate that did not receive a single vote, Republican or Democrat. They are not serious.

I guess I am just asking you, I hope that you will engage on this issue of trying to do something about what I think is a very, very huge problem for our country's future, and that is this massive debt.

Mr. LEW. Senator, I could not agree more that we need to deal with our fiscal challenge. I may disagree that it is a combination. We have a deficit problem, and we are going to need to solve it with a combination of spending reduction and restoring revenue. But that is the kind of thing where we can have a discussion and figure out what the right balance should be. The President said he thinks it should be 2:1, spending cuts to revenue.

In terms of specific proposals on Medicare, the President's budget that I worked on had $300 billion of specific savings proposals. They were a mix of different approaches. Some were on the providers, some were on beneficiaries, some were adding a burden to those who can afford to pay for their Medicare if they retire, and they can afford to pay for it. There is going to be a difficult discussion at some point of what the right mix between those different approaches is.

The President, in negotiations in December, offered to increase to $400 billion the savings in Medicare, and we are prepared to en-

gage in very specific ways to do that. The sooner we put the fiscal frame together, the better, to get certainty in the economy and to be able to move on and create an economy that is growing and creating jobs.

Senator THUNE. I think my time has expired, Mr. Chairman. Thanks.

The CHAIRMAN. Thank you, Senator.

Next, according to our early bird rule here, is Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Lew, congratulations on your nomination. In your previous confirmation hearing to be the OMB Director, there were a series of questions raised about deregulation and the approximate causes of the financial crisis. Some of the responses that you gave raised some concerns as to your commitment to stronger financial regulations. Clearly, there is a difference between being the OMB Director and being the Treasury Secretary in that regard.

The Wall Street reform law has given the Treasury Secretary a much stronger role in oversight of financial regulation, and you would play a very significant role in regulating our financial sector, so I would like to give you the opportunity to put some of those concerns to rest.

Do you believe that stronger regulation of our financial sector was, and is, necessary? Moving forward, if you were to be confirmed, do you support the full and robust implementation of the oversight rules of the Dodd-Frank law?

Mr. LEW. Senator, I very much believe that Dodd-Frank was necessary, that we needed to modernize the regulation of the financial services industry. I think that the oversight provisions in Dodd-Frank need to be implemented. If confirmed as Chairman of the FSOC, it would be an extraordinarily high priority of mine.

Senator MENENDEZ. All right.

One of the other things that you will have in your portfolio as the Treasury Secretary is the implementation of sanctions. As the author of the Iran Sanctions Act, I am obviously very interested in making sure that Treasury pursues the law that the Congress passed nearly unanimously and that the President signed as our last peaceful diplomacy tool to prevent Iran from achieving nuclear weapons.

If you are confirmed, will you ensure the robust enforcement of the sanctions provisions that we have given to the President, seeing that a large universe of them are within the Treasury Department?

Mr. LEW. Yes, Senator. If I might just elaborate on that a bit. I think that our sanctions—our unilateral sanctions that are bringing the world community together for multilateral sanctions—have put in place the strongest sanctions regime in history. Frankly, it is the only reason I have some hope that we might be able to resolve the issues that we have with Iran peacefully.

Sanctions are doing what they need to do: they are crushing the Iranian economy. GDP is down, the value of their currency is down, unemployment is up, inflation is up. What we have not seen yet is whether that has changed the mind of the regime so that it is ready to, in a diplomatic process, give up the pursuit of nuclear weapons. That is the goal.

The President has made clear it is unacceptable for Iran to have nuclear weapons. We will exhaust all diplomatic and economic means we can, but all options are left on the table. I firmly believe that these economic sanctions are far preferable to war, but we must pursue them vigorously.

Senator MENENDEZ. All right.

Now, with reference to the President's State of the Union speech, a good part of what he talked about was a growing economy, that growth is an essential provision of achieving some of the deficit questions as well as the job opportunity questions.

What do you see—I read through your testimony—for yourself in the role as the Treasurer of the United States, in being part of creating that growing economy?

Mr. LEW. Senator, the Secretary of Treasury is the senior member of the President's economic team. I have worked on economic teams from various perspectives. One of the things that I think is most important for a Treasury Secretary to do is to always ask, what can we be doing to get the economy moving? What can we do to help create an environment where jobs will be created? What can we do to create the possibility that every family that is willing to work hard has the chance in this country to get a decent life?

Now, I think there are many things we can do. I am an optimist by nature, but I also believe you just have to keep working at it. The President proposed, in the American Jobs Act, a number of proposals. Last night, he thanked the Congress for adopting a few of them, and he urged the Congress to enact the rest. I believe that, in the short run, investments in infrastructure make a lot of sense.

I think investments in keeping teachers and firemen from being laid off make a lot of sense. I think, in the longer term, we have to get our fiscal house in order, no doubt, but we cannot shortchange the investments that build the economy for the future, things like infrastructure, things like education, skills training.

We have the best workforce in the world. We have the most vital economy in the world. In order to be there in the future, we need the R&D, the people, and the infrastructure. That has to be in conjunction with a fiscal policy that we can afford.

Senator MENENDEZ. Well, I hope, in closing, Mr. Chairman, that you will also put in that universe something the President mentioned in his speech last night, which is mortgage refinancing.

Mr. LEW. Absolutely.

Senator MENENDEZ. Senator Boxer and I have legislation on that. I cannot understand for the life of me why we would not let thousands of American families refinance, lower their rates to the historically low rates, and unlock, not only a universe of solidified homeowners, but also unlock economic potential for——

Mr. LEW. Senator, I could not agree more.

The CHAIRMAN. Thank you.

Senator Cardin?

Mr. LEW. The work, you have done that. It is very important.

The CHAIRMAN. Senator Cardin?

Senator CARDIN. Thank you, Mr. Chairman.

Mr. Lew, thank you very much for your willingness to continue in public service. We congratulate you on the nomination. I thank,

also, your family, because this truly is a family sacrifice, and we very much appreciate that.

You come to this hearing with an incredible background of public service. I just want to underscore one experience that I think will be very helpful, and that is your work in the House under Tip O'Neill, where you were a part of the efforts to reform our Social Security system and our tax code, both of which required bipartisan cooperation, where the White House and Congress were under different parties. We need that desperately today. I think you will be well-suited in that regard to bring together Democrats and Republicans to solve our national fiscal issues.

I want to touch on one or two points in the time that I have. First, I would like to deal with the problems that have been brought to our attention about small businesses and access to capital. We have had several initiatives to try to help small businesses gain easier access to capital to expand job opportunities.

With the concerns of community banks—and we see a lot of community banks being merged into larger banks—there is a real challenge for a small company to be able to get access to capital to expand our economy. Do you have thoughts as to how you, if confirmed as Treasury Secretary, can help ease the burdens that small businesses have in getting access to capital?

Mr. LEW. Senator, in the aftermath of the financial crisis, one of the big challenges has been to get capital flowing again. We have two problems. One is, there are businesses that have a lot of cash on their balance sheet that they are not investing, and we have financial institutions that have been slow to get back into the lending business.

I think we have seen some progress on the opening of the spigots in lending. It is going to be a balance. We have to make sure that financial institutions are sound and that, particularly, larger financial institutions do not get back into a position where they create risk to our entire system or risk that the taxpayers will be left with a burden.

For community banks, I think that many of the new laws and regulations, quite rightly, were written to treat them differently, that small institutions do not have the same regulatory burdens, the same reserve requirements that large institutions do. I would look forward to working with you and others on this committee to make sure that we implement the laws in a way that does help get capital flowing.

Senator CARDIN. I appreciate that. I think the laws are well-intended. I think, on the ground, they are not working exactly as we all intended. And I am not blaming the administration or Congress. I think collectively that we need to do a better job to help small businesses get the access to capital that we intended, that, in too many communities, is not taking place that way.

I want to turn to a second subject dealing with the national savings rates. Senator Portman and I worked in the House on dealing with our national savings issues. During the best of economic times, savings rates in this country were very low. It is important for our economy to have private savings. It is also important for individuals, for retirement security, taking pressure off of a lot of the public plans.

One of our concerns is that, as we look at tax reform, there are efforts being made to diminish the tax incentives for individuals to save and companies to set up retirement plans. That could be very counterproductive for many reasons, because what you are doing is talking about the timing of tax revenues. And, on a long-term basis, we are accelerating tax collections and even making our long-term finances counter to what they should be.

Will you work with us, and do you have suggestions as to how we can improve opportunities for individuals to save, particularly for their retirement?

Mr. LEW. Senator, I believe that it is very important that we have policies that encourage individuals to save for their retirement. We have long viewed our retirement system as being something that depends on a combination of Social Security, pensions, and savings. We are in a new world where pensions are a smaller part for many people, which means that savings are going to have to pick up more of the burden.

We have had rules that could have been simplified. There are proposals that the administration has made, for example, for people to have to opt out as opposed to opt in to retirement savings. That is viewed as something that would actually very much increase the likelihood of people saving for retirement. I would look forward to working with you and others on a bipartisan basis to think through these ideas.

Senator CARDIN. Let me just say, lastly, Senator Stabenow talked about delivery system reform in the health care system. It has been very frustrating, because we know that we are moving forward to a better, more efficient health care system.

The problem is, how do we get that scored, and how do we do it in a way that we know we will get the savings that we need? So, I just look forward to working with you, because your experience at OMB, your experience in the White House, and as Treasury Secretary, puts you in the unique position where you can help as we try to deliver a more efficient health care system for the American people.

The CHAIRMAN. Senator Cornyn?

Senator CORNYN. Thank you, Mr. Chairman.

Mr. Lew, good morning.

Mr. LEW. Good morning.

Senator CORNYN. Good to see you.

As you know, the Medicare Board of Trustees, on which the Treasury Secretary serves as the managing trustee, must project whether general revenue funding will exceed 45 percent of Medicare outlays for the current fiscal year, or any of the next 6 fiscal years. This is sometimes called the Medicare trigger. I think you and I talked about this in our meeting in my office.

These funding warnings have been issued since 2007. President George W. Bush submitted a proposal pursuant to the requirement of the statute which says that, when this funding warning is triggered after two such consecutive determinations, the President is required to propose legislation within 15 days of submitting a budget to reduce spending below the 45-percent threshold.

President Obama has never submitted a proposal pursuant to that legal requirement, has he?

Mr. LEW. Senator, I am familiar with the report, and I know that the acting OMB Director has written to you on it. The view, as I understand it, in the Bush administration when the prescription drug bill was signed, was that the report was not one that was constitutionally required of the administration. They voluntarily submitted it. When the Obama administration came in, actually the budgets that we have submitted have had specific Medicare savings proposals, but before I was at OMB the decision was made not to voluntarily submit the report.

Senator CORNYN. So the administration is taking the position it is unconstitutional?

Mr. LEW. Well, as I understand it, there was a signing statement in the Bush administration that said that it is inconsistent with the recommendations clause of the Constitution.

Senator CORNYN. But they submitted the report. The Obama administration has never submitted a report, correct?

Mr. LEW. Well, we have submitted specific Medicare savings proposals which, if enacted, would resolve the issue. I would also add that, in 2013, we will be out of that zone, so the combination of the trajectory we are on with the savings from the Affordable Care Act and specific proposals that the administration put forward, have addressed the substance of the issue.

Senator CORNYN. Well, the record will reflect that the administration has never submitted a report, pursuant to that statute. I hear you saying they have submitted other proposals that you think are satisfactory, but it does not comply with the statute.

As you know, the Congress has passed a no budget-no pay bill which says if Congress does not do its job and pass a budget, it does not get paid. I would just submit that maybe it would be appropriate to say that the Office of Management and Budget not get paid unless they comply with the statutory mandate under the Medicare trigger.

Last night the President talked about energy production, which I was actually very gratified to hear about. My State has seen job growth go up 32 percent since 1995, compared to 12 percent for the Nation as a whole, in significant part because of energy production. But I would like to ask you, do the planned revenue proposals that the President has in mind include tax increases on American energy producers?

Mr. LEW. Senator, the President has proposed eliminating a number of targeted provisions for the oil and gas industry. They are provisions that the administration does not believe are necessary to continue having the industry go through the process of extracting and using those resources. He has proposed other incentives to develop new sources of energy, and we would look forward to working with the Congress to have, as we call it, an all-of-the-above energy strategy.

Senator CORNYN. So that would effectively raise the tax burden on American oil and gas producers?

Mr. LEW. Well, it would take away a special provision that now encourages activity in that area more favorably than in other areas.

Senator CORNYN. So they would pay more in taxes?

Mr. LEW. It is going to be part of tax reform. There will be some special provisions that have to be eliminated so that everyone can get a lower rate.

Senator CORNYN. Well, Mr. Lew, I am amazed at your unwillingness to answer a simple question, but let us move on.

We talked about the level of Federal spending, and we talked about that in my office. The 40-year norm is that the Federal Government spends roughly 20 percent of our Gross Domestic Product. Actually, during the Clinton years, in which you served, the average spending level was 19.8 percent.

Under the Obama administration, it has been 24.4 percent, while revenue has been at 15 percent, hence the 9- to 10-percent deficit, the difference between revenue that is brought in and the amount of money that the Federal Government keeps spending, which is obviously borrowed money.

In our meeting in my office, you declined to identify what you would consider to be an appropriate target for Federal spending. Are you prepared to do so today? Do you think the 40-year average norm of 20 percent, roughly, is appropriate, or do you think the new normal should be what it currently is under the Obama administration, 24.4 percent?

Mr. LEW. Senator, I do not think the current situation is the new normal. We are at the end of a recovery from a very deep recession, where we have had extreme reductions in revenue because of economic activity and more spending because of economic conditions. What I do believe is that, as we look ahead, we have to recognize what is driving costs.

What is driving spending is that there are 30 million more people who are going to be eligible for Medicare and Social Security because the baby boom is retiring. So we have a reality that, even if we make sensible changes, there is going to be more activity in those programs because there is going to be a larger population of people eligible.

So I think to say that there is an exact number based on a historical norm kind of misses the fact that there is this large cohort moving through the system that we are going to have to make some tough choices about.

I, for one, think we ought to pay Social Security and Medicare recipients' benefits, and I think most members and Senators do as well. But that is what is driving the number. We are at a historically low level of discretionary spending as a percentage of GDP. We are down to the levels of the Eisenhower administration.

The CHAIRMAN. Thank you, Senator.

Senator Portman?

Senator PORTMAN. Thank you, Mr. Chairman.

I would just say to the 24 percent, the Congressional Budget Office, as former OMB Director Jack Lew knows, just told us last week that we are quickly going to 25, and then 30, and then 35, and then, in the year 2042, 40 percent of GDP, so clearly this is not sustainable. CBO also made the point that you simply cannot cache that level of spending with new taxes, at least under the income tax code.

So, as Treasury Secretary, you are going to have the opportunity to deploy all of those OMB skills. I would agree with Senator

Cornyn that we need to establish, what is the right level of government, and then be sure that our budget is balanced over time. CBO tells us that revenue is going to exceed its historic average, as you know, in the next few years, by 2015.

But let me back up on a question that I would like to ask you today regarding corporate tax reform and individual tax reform. Last night in the State of the Union address, the President said a lot of things. Again, as a former OMB Director, I hope you were at least a little uncomfortable with his laying out what I counted as 10 new Federal spending programs.

I will not ask you today how we are going to pay for those. The President said not a dime in the deficit, which I guess means higher taxes. But he did say some things I thought were very promising about reform, and that was with regard to tax reform and entitlement reform. He also said something that I appreciated, which is, it is not going to be easy.

I think that is part of his role as President—and your role should you become Treasury Secretary—to lay this out for the American people in a way—as we just talked about, the current spending level is unsustainable. We do have to reform these important vital programs so that they are there for future generations. With regard to tax reform, as you and I have talked about, I believe it is a huge opportunity to give the economy a shot in the arm.

Senator Hatch talked about it, Senator Baucus talked about it in his comments and questions to you, Senator Crapo, Senator Thune, and others. But I would like to dig a little deeper if I could, because I really think this is an area where we can both see strong economic growth and also, frankly, find a consensus here between the administration and the Congress on a nonpartisan basis almost, because I think it is one that we all agree needs to be done.

In 1986, back when you were here on the Hill and Ronald Reagan was working on tax reform, we lowered the corporate rate from 46 percent to 34 percent 27 years ago. We did that very deliberately to get our corporate rate below the average of our competitors.

In the intervening 27 years, every single one of our competitors, all of them, have not just lowered their rates but reformed their corporate tax code except us. That puts us at a clear competitive disadvantage. We are sitting on the sidelines while investment in jobs and headquarters is going overseas. We can talk more about that.

But here is a quote that I like. It is from the Secretary of the Treasury equivalent, the Chancellor of the Exchequer in the UK. He says, "The headline rate of corporate tax remains the most visible sign of how competitive our country is. By 2014, Britain will have a 22 percent rate, headline rate, that is not lower than all of our competitors but dramatically lower, 18 percent lower, than the U.S." So this is what is going on. They are all lowering their rates, and they are all reforming their code to make it more competitive, except us.

We talked earlier about our rate being 39.2 as an average, that is the corporate rate, when you include the State and the Federal rate, which is 14 points above the OECD average. You made the point that, while that is really not the effective rate, the effective

rate is lower, but I will just put on the record today, the effective rate is still eight points higher than the OECD average.

So I do not want folks to misinterpret what was said earlier when the point was made that our effective rate is lower, because you could have inferred from that that it is lower than the average. It is not. It is still higher. As you have talked about today, and I think Senator Crapo discussed, this is incredibly complicated. Therefore, we do not have an efficient allocation of resources; therefore, it is hurting jobs in this country.

So I would just ask you, given that the President's Jobs Council has come out with a report that cutting the corporate rate in a deficit-neutral way would boost economic growth, given that Simpson-Bowles also said that, given that the Treasury 2012 white paper advocated cutting the corporate rate because it would "put the United States in line with other major competitor countries and encourage more investment in America," given that the OECD has now concluded that a high corporate tax rate is "most harmful to growth," would you agree that revenue-neutral tax reform that reduces our corporate rate is a competitive necessity for our country?

Mr. LEW. Senator, I very much agree that business tax reform where we broaden the base and lower the rate would be very important to getting our economy moving again.

Senator PORTMAN. And do you believe that reducing that corporate rate is good for workers? Let me just give you a little background from some of the studies I have seen on this. The CBO has said that 70 percent of the corporate tax burden falls on workers in the form of reduced wages and fewer job opportunities.

There is a recent study by a Harvard economist saying that corporate taxes depress both real wages and returns to capital, most of the burden of corporate taxes being borne by labor. Would you agree that the corporate tax system we have right now is bad for the American worker and that a corporate rate cut would be good for jobs and wages?

Mr. LEW. I think a reformed tax system with a lower rate that encourages investment in the United States and the creation of jobs in the United States would be good for American workers who would fill those jobs.

Senator PORTMAN. Great. Thank you, Mr. Chairman. I look forward to talking about entitlement reform on the second round.

Mr. LEW. I look forward to working together.

The CHAIRMAN. Thank you very much, Senator.

Senator Brown?

Senator BROWN. Thank you, Chairman Baucus.

Welcome, Mr. Lew. Thanks for being here. One of the most important jobs the Treasury Secretary does is serving as Chairman of the FSOC. You did not mention it in your written testimony, and I am going to ask you a little bit about it.

We know that the six or so largest mega-banks in our country benefit from lower interest rates in the capital market, some say 50, 60, 70, 80 basis points. Senator Vitter and I have made a request of GAO to study what that differential exactly is. Basically it is a subsidy through reduced funding costs based upon the market's belief that these banks are, in fact, too big to fail.

Don't you think it is unfair for these banks, $2-trillion banks in at least a couple of cases, these mega-banks, to receive government-subsidized funding advantages that community banks in West Akron, or Palmyra, or Sycamore, OH do not get?

Mr. LEW. Senator, the administration has proposed a financial responsibility fee that would fall on those large banks, which is something that we think is the right way to assess responsibility for past burdens put on taxpayers. In terms of the access to different borrowing windows, I would be happy to follow up with you on the differences between access in community banks and large money center banks.

But in general, our view is that we have to distinguish between the large banks that create risk to the system and smaller institutions that are less likely to. We have tried to put less burdens on the smaller banks. I am not familiar with the specific issue you are raising.

Senator BROWN. Well, I mean, you are familiar with the fact that these mega-banks do get advantages in the capital markets because they can borrow money at a less expensive rate. I mean, I have kind of heard this from Treasury before—not your responsibility yet, but I have heard this before.

One of the jobs of FSOC is to eliminate the market's expectations that the government will serve as a backstop in the event of failure. My question is fundamentally this: if GAO, with Senator Vitter's and my request, finds these subsidies exist, will you commit to working with Senator Vitter and me to take further steps to eliminate that government subsidy, that government support for these mega-banks?

Mr. LEW. I will be happy to follow up with you, Senator, and understand the GAO report, and work on having a system that appropriately encourages smaller banks to have the opportunities that they should have.

Senator BROWN. You have not quite said that——

Mr. LEW. I have not read the GAO report.

Senator BROWN. I mean, the GAO report is not there yet. Neither have we. But we also know that all evidence points to the fact that the largest banks in the country, in the capital markets, get interest rates lower when they borrow than do medium-sized and community banks, and you acknowledge that.

Mr. LEW. I acknowledged that the market works the way you have described, yes.

Senator BROWN. All right. All right.

Now let me shift——

Mr. LEW. Just to be clear, the reason I am being a little hesitant is that markets, unless they are creating systemic risk or putting burdens on taxpayers, are not generally—we do not intervene in markets on a regular basis. So I would want to understand the issue, understand what Federal policy is behind it, and work with you if there is an issue where Federal policy is contributing to some unfair——

Senator BROWN. I guess I think it is pretty clear that Federal policy has contributed to this. I mean, really, it is Federal policy that subsidizes the mega-banks by the implicit "too big to fail" policy, but we can debate that later.

Mr. LEW. That is why, Senator, I mentioned the responsibility fee. We think that Dodd-Frank dealt with "too big to fail," and on top of that we think there should be a fee on large money center banks to approximate the risk they presented in the past.

Senator BROWN. All right. I do not totally agree with you, but that is fine.

Let me shift to China currency for the last minute or so. It is clear that China's currency manipulation means jobs in my State. There is no question it has cost us jobs. I spoke with Randy Solganik the other day, who owns a company called City Plating in Cleveland. They are doing just about everything right, yet they face a competitive disadvantage on their exports and unfair competition on imports because of the currency manipulation.

There has been some movement in the right direction in the value of the yuan, we know that, but it has been too slow, it has been too little, especially when you consider the U.S.-China trade deficit. When trade deficits generally moved in the right direction, our trade deficit with China did not. It went from 295 to 315.

Do you agree that currency manipulation is, in fact, an export subsidy?

Mr. LEW. Senator, we have, over the last 4 years, pushed back very hard on China in a whole number of areas. We pushed back on our perception that the currency was under-valued. We pushed back on unfair trading practices.

We engaged in the strategic and economic dialogues and bilateral discussions over many occasions. I think we have made progress. There has been a 15-percent improvement in the valuation of China's currency. It is still under-valued, and more progress needs to be made.

Senator BROWN. The administration has been pretty good on trade enforcement through Commerce and through ITC but has fallen short when we asked the administration to include currency in their filings. Are you willing to—or do you support industries filing petitions to seek relief against countries that actually manipulate their currency?

Mr. LEW. Senator, I would put a lot of energy behind developing a relationship where I could push back on practices in China that we think are unfair. We have done that as an administration, and we will continue to do that.

The CHAIRMAN. Thank you very much, Senator.

Senator BROWN. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Toomey?

Senator TOOMEY. Thank you, Mr. Chairman.

Mr. Lew, thanks for coming. Good to see you again.

Mr. LEW. Good to see you.

Senator TOOMEY. I wanted to follow up a little bit on the conversation we had in my office a week or so ago. As you know, I am very concerned about the implications, the effects of this huge new series of regulations, most of which emanate from Dodd-Frank. As you know, we have seen over 9,000 pages of new rules and regulations already, and they are not close to being finished.

When Jamie Dimon famously questioned Chairman Bernanke about the cumulative adverse effect of all of these new regulations on the availability of credit and on job growth, Chairman Bernanke

acknowledged that they do not really know what the cumulative effect is and do not seem to have a way of analyzing and understanding that.

So, as Treasury Secretary, of course, and head of the FSOC, you will be arguably the most powerful financial regulator in the world and have a great deal of influence over this. My question for you is, what are your thoughts about how we ought to think about the unintended and adverse consequences of this really massive new wave of regulations?

I am particularly concerned about small and medium-sized banks, which are not at all systemically important, but nevertheless are hiring more compliance officers and loan officers because they have to afford this. Should we not understand the implications that this has? What are your thoughts on that?

Mr. LEW. Thank you, Senator. I think we need to be very much attentive to the burdens of all regulations that we put forward, particularly in an area as important to the economy as the financial services area. I think we also have to be attentive to the cost of failure to regulate appropriately.

We saw in 2008–2009 the enormous loss of economic power in this country because of the financial crisis, the burden it put on individuals and businesses, and the burden it put on taxpayers. So, as we look at the costs and benefits, we have to look at the systemic risks and what are the consequences of a failure to regulate properly.

I know that each of the agencies that are working on this are working in their areas, trying to get their hands around that. It is complicated. It is something that, if confirmed as chair of FSOC, I would urge all of the regulatory agencies involved in implementing Dodd-Frank to pay close attention to.

Senator TOOMEY. I would hope so because, as you know, the vast majority of financial institutions in America have no systemic significance, because they are not big enough to. Yet, they are often caught up in a whole lot of regulations that impede their ability to extend credit. That is one of my concerns.

The second issue——

Mr. LEW. Senator, I would look forward to working with you to make sure that the provisions that were intended to not put those kinds of burdens on those smaller institutions are being implemented as intended.

Senator TOOMEY. Good. Terrific.

On a separate topic, you may be aware of a huge expansion in a relatively new form of tax fraud. We have seen this in Pennsylvania, where criminals steal a Social Security number, they submit a tax return to the Treasury seeking a refund, and they get it. The unsuspecting victim whose identity has been stolen wonders why they never get their refund. It is because someone else got an unrelated and fraudulent refund.

The IRS, I think, believes this could be on the scale of tens of billions of dollars a year. They have made some progress. I am glad that they included Pennsylvania in a pilot program to work more closely with local law enforcement authority. But I think a lot more needs to be done, and I think it can be done. I think the technology

exists to largely solve this problem. Are you prepared to commit to making sure we get this under control?

Mr. LEW. Senator, I am. My understanding is that the IRS has put a good deal of resources behind this, has made a great deal of progress. It is a pernicious kind of crime, identity theft. The President spoke to this issue last night in the broader context of cybersecurity. We have a whole new level of criminal activity where very clever and creative criminals are trying to get a step ahead of systems that are going to need to get a step ahead of them. If confirmed, I would work with the IRS Commissioner to make sure the IRS was doing that. I think we also need cyber-security legislation for the broader threat.

Senator TOOMEY. Last question. Understanding, as we all do, that monetary policy is the realm of the Fed, the Treasury Secretary is nevertheless responsible for managing our Nation's debt, for borrowings. The value of the currency is necessarily very important and integrally related in that.

But there are a number of countries that seem to be inclined to deal with their fiscal problems by devaluing their currency. Some might argue that the behavior of the Fed would be consistent with one that was intended to, in time, devalue our currency. I am just asking if you will be a vocal advocate for a strong dollar policy and acknowledge that a strong dollar that maintains its value is a necessary precondition of strong growth.

Mr. LEW. Senator, Treasury has had a long-standing position, through administrations of both parties over many years, that a strong dollar is in the best interest of promoting U.S. growth, productivity, and competitiveness. If confirmed, I would not change that policy.

Senator TOOMEY. Thank you very much.

The CHAIRMAN. Thank you, Senator.

Senator Bennet?

Senator BENNET. Thank you. Thank you, Mr. Chairman, for allowing me to join this committee. I am very pleased to be here.

Mr. Lew, thank you for your public service. I want to ask you a couple of questions. The first one is, as we have lurched from manufactured crisis to manufactured crisis in this land of flickering lights on Capitol Hill, people at home are doing the best they can to try to build their businesses, support their communities, educate their children, and get ahead.

The last 20 years has seen in this country a decline in median family income that is quite significant over that period of time, while the cost of health care has skyrocketed. The cost of higher education has skyrocketed. It has made it harder, harder, and harder for people working hard to get ahead. It also has created massive income inequality we have not seen since 1928 in this country.

I know there are a lot of things we can do to address this with education and other kinds of things, and ultimately government cannot solve this problem. But you mentioned that tax reform was hard because of the interests that are fighting to hold onto benefits they gained, sometimes deep in the 20th century. But maybe, if we have an objective that people could rally behind, it will make our work easier.

It would seem to me that an objective that said we would like to recouple wage growth and job growth with economic growth once again might be a useful way for us to think about this. It is not just the economic growth for economic growth's sake. It is economic growth that is building a middle class again in this country. I wonder if you have thoughts about how we might approach the discussions on the committee with that objective in mind. Maybe it is not the right objective.

Mr. LEW. Senator, I think it is the right objective. I think, in the President's speech last night, he called it the North Star that we need to always keep before us as we go through each of the component policy areas, and tax reform is one of those. I think we have made some progress.

The tax bill that was passed in January did go a distance to restoring some equity in the distribution of the tax burden. I think the distribution of income has been a real problem. It ought to be possible for somebody who works 40 hours a week to earn a decent wage. It ought to be possible for anyone who is willing to work hard to make it into the middle class. We have a lot of work ahead of us, but there is no substitute for growing the economy.

If we grow the economy, that is going to create jobs. If we create jobs and we have people with the skills for those jobs, there is going to be a better future for people to enter and stay in the middle class. I think there is no more important undertaking for a Treasury Secretary than to keep that in mind every day, because that is what it is about. That is what the goal is.

Senator BENNET. Well, let me ask you this then, because I do not think there is anything that is creating a greater drag on this economy than our own dysfunction. That is certainly what I hear from the business people whom I talk to, from farmers and ranchers in the State. That is what is dragging us backward.

On the other hand, there is huge, pent-up energy too. There is $2 trillion sitting on balance sheets in this country that cannot be invested because they have no idea what interest rate environment we are going to be in, because they have no idea how to calculate the political risk in Washington.

You have been here during times when both parties were able to come together and craft long-lasting, not 2- and 3-month deals, but deals that endured over time and helped bring us back from the brink to get us where we need to be. What are some of the conditions that we need to rally around here so that we can see that kind of work again in the U.S. Congress, in your view, based on the experience that you have had?

Mr. LEW. Senator, I share your concern that the short-term crisis, deadline-driven practices that we have seen over the last couple of years are undermining the economy.

Senator BENNET. It makes matters worse.

Mr. LEW. It does. It is the first time in my nearly 30 years in public life that I have felt that the actions of government were actually working against the goal of getting the economy moving.

Now, I actually take some heart in the fact that there is a solution. There is a solution that we have gotten close to a couple of times and we, by going through the regular order, could get done if we can bring, on a bipartisan basis, parties together to do that.

I think that we have an obligation to the American people to get that done.

Senator BENNET. Well, sign me up for that. I hope we will be able to work on that. Part of what you are going to be is chair of FSOC. Other than things outside of our control, like Europe, I cannot actually think of anything that is creating more systemic risk to this economy than this Congress. It is time for us to start working together to solve this problem.

Mr. Chairman, thank you. My time is up.

The CHAIRMAN. Thank you, Senator.

Senator Casey?

Senator CASEY. Mr. Chairman, thanks very much. I join Senator Bennet and others in expressing gratitude. It is an honor to be on this committee, and we are grateful for this opportunity. We are also grateful for the effort that the chairman and others have made to bring folks together on this committee, and therefore to bring forth a more bipartisan approach to a whole range of difficult issues, economic and fiscal in nature.

Jack Lew, I am grateful to see you back, putting yourself forward for yet another position of public service. We are grateful for that commitment. I will not read the list of positions you have held in the Federal Government, but every one of them was difficult and many of them required confirmation, or at least total engagement by you and by your family. We are grateful that your wife and daughter are here to join you today and to make their own statement of solidarity with you to serve the public again. We are grateful for that.

I will begin with just a historical note, where the chairman began this morning talking about Albert Gallatin, who happened to be a Pennsylvanian. What is little-known, or little-remembered, I guess, is that, before he achieved acclaim as a Treasury Secretary, he was a candidate for the U.S. Senate, was elected by the legislature of Pennsylvania, the general assembly, tried to be seated, but, because he lived here only 7 years, according to the assertion made against him, he was thrown out of the Senate. So, he did not have a good experience with the U.S. Senate, but he became a great Treasury Secretary.

So for you today, my wish is that you have a better experience with the U.S. Senate and then go on to a great career in the Treasury, leading the Treasury Department.

I wanted to begin with maybe two areas to explore in the time I have. One is the basic challenge we face as it relates to the impact of global currency policy. I want to step back, because sometimes, when we talk about things in global terms, it does seem far away from communities in Pennsylvania and States like it.

The reality is such that—and this is my point of view, and I know some disagree with this—when it comes to just China's currency policies, that has a real impact, a tremendously adverse impact, on communities in Pennsylvania. We have lost a lot of jobs because China has cheated, and I would argue continues to cheat on the currency policy.

In light of the exchange you had with Senator Brown, I hope that you would keep an open mind as Treasury Secretary, not simply to having a good engagement with the Chinese and therefore to

have a better policy as it relates to their currency policy, but I hope that you would seek new ways, maybe ways that are consistent with the bill we passed in the Senate, to have real consequences, to designate misaligned currencies, then to have priority actions, as the bill speaks to, which have real teeth and real consequence.

But I ask you, not just in the context of China currency and other currency policies, but just generally, if you had to walk into a manufacturing plant in Pennsylvania that has been stressed by a tough economy, stressed by currency policies, stressed by trade policy as well, what would you say to the head of a manufacturing company that you are going to try to do as Treasury Secretary, that the administration is doing, to give them a level playing field, albeit a playing field that has to come about based upon a number of policies?

Mr. LEW. Senator, I think that there are many things we have to do. We have to vigorously insist that the laws and international agreements be honored and, where they are not, that there be consequences. We have done that in the area of trade with China over and over again. We have done it in auto parts, we have done it in tires, we have done it in rare earths.

I think on the currency question, we work through the international bodies, the G–7, the G–20, to advance the view that it is not just the United States, but the organized nations of the world that insist on having currency policies which are market-determined. In our bilateral relations, we push back very hard.

I would look forward to working with you and the members of this committee so that we can assure manufacturers in the United States that we are doing everything we can to make the United States an attractive place to invest and to insist that these kinds of laws and norms be honored.

Senator CASEY. Well, I am the newest member of the committee, so I did not have a chance until today to talk to you, but we will get together and talk about some other issues. Thank you very much.

Mr. LEW. Thank you, Senator.

The CHAIRMAN. Thank you, Senator.

I think, Senator Roberts, you are next. Oh, Senator Burr. Sorry. Senator Burr, you are next.

Senator BURR. Thank you, Mr. Chairman.

Mr. Lew, welcome. Thank you and your family for serving you up in public service so much. [Laughter.]

Mr. LEW. If I might, Senator, just apologize. My wife has a class to teach at New York this afternoon, so she had to run to catch a train.

Senator BURR. That is quite all right. I want you to know that my family's differences with Alexander Hamilton do not extend to other Secretaries of the Treasury. [Laughter.]

Mr. LEW. Well, I appreciate that. I am not going to Weehawken.

Senator BURR. You said in your testimony that we cannot let sequestration take effect. In Bob Woodward's book, "The Price of Politics," Woodward credits you with originating the plan for sequestration. Was he right or wrong?

Mr. LEW. Well, Senator, it is a little more complicated than that, and even in his account it was a little more complicated than that.

We were in a negotiation where failure would have meant the default of the Government of the United States.

Senator BURR. And I hate to speed it up. Did you make the suggestion?

Mr. LEW. Well, what I did was, I said that, with all other options closed, we needed to look for an option where we could agree on how to resolve our differences. We went back to the 1984 plan that Senator Gramm and Senator Rudman worked on and said that that would be a basis for having a consequence that would be so unacceptable to everyone that we would be able to get action.

Senator BURR. So is it unfair that the President says the blame is on House Republicans, that they originated it, is what he said?

Mr. LEW. Senator, the demand for an enforcement mechanism was not something that the administration was pushing at that moment. Our preferred outcome would have been to have there be something on taxes and something on spending. It was unacceptable to the other parties for taxes to be part of it. The only spending—the only alternative that anyone could think of that could be agreed to was sequestration, precisely because it is so objectionable that nobody could imagine it——

Senator BURR. I heard your testimony today that it should not take effect. On November 21, 2011, let me quote the President: "Already some in Congress are trying to undo these automatic spending cuts. My message is simple: no. I will veto any effort to get rid of these automatic spending cuts to domestic and defense spending. There will be no easy off ramps on this one." What has changed?

Mr. LEW. Well, the rest of what he said was that Congress should work on putting in place policies that make sense to get our fiscal house in order. That is consistent with what he said last night. It is consistent with what I believe. This is not an impossible problem to solve. It would be better for the country if we have an agreement on a framework for solving our fiscal problems instead of going into sequestration.

Senator BURR. Do you regret suggesting sequestration?

Mr. LEW. Senator, I look back at a time when a lot of people thought we were going to default. That was not an acceptable option. I think that it should not have been the case that the good faith and credit of the United States was at issue, but that is what was at issue. I think we had a solution that frankly should still work. Sequestration is so objectionable that we ought to just do our work and solve the problem.

Senator BURR. Back in the Armed Services hearing last week, Secretary Panetta testified that, following his and General Dempsey's 5 o'clock meeting on September 11th after the Benghazi attack, they had no further contact with the White House, and it was their understanding that you, as Chief of Staff, were the individual briefing the President. Is that accurate?

Mr. LEW. Well, Senator, I did speak with the President that evening. The national security staff was working on the issue on a nonstop basis.

Senator BURR. But who was actually briefing the President? Were you?

Mr. LEW. I was not. I was in the room when the President was briefed, but I was not briefing the President.

Senator BURR. All right. Because John Brennan testified yesterday that it was not him. Secretary Panetta said it was not him. In hearings, the ODNI Clapper said it was not him. Acting DCI Mike Morell said it was not him. Ambassador Kennedy said it was not him, and the FBI said it was not them. Now, we have eliminated a lot of people who had contacts within the intelligence community who knew firsthand what was going on in Benghazi.

Let me ask you again: who briefed the President on actually what was happening throughout this 7-hour period?

Mr. LEW. Well, in the conversations that I was in, the national security staff was present, and some of the people——

Senator BURR. Would John Brennan have been included in that?

Mr. LEW. You are asking who did a briefing, and that is different from who is in a conversation. I think if you ask people, were they in conversations, there might have been a different answer.

Senator BURR. Who was your primary point of contact in the intelligence community?

Mr. LEW. As Chief of Staff, I did not usually reach out directly to the intelligence community. I worked through the national security staff.

Senator BURR. Was there anybody from the intelligence community in that briefing session on a continual basis, to your knowledge?

Mr. LEW. The intelligence community was in close touch with the White House, with the national security team, on a near-constant basis.

Senator BURR. Last question. If the Affordable Care Act is the panacea some suggest it is, why did the executive branch exclude themselves from coverage under the Affordable Care Act?

Mr. LEW. Senator——

Senator BURR. Congress is included, staff is included, members are included, but nobody in the executive branch is included under the Affordable Care Act.

Mr. LEW. Senator, that is actually a provision I was not involved in the creation of. I would have to go back and check. But I——

Senator BURR. Do you think they should be?

Mr. LEW. Well, I assume it has something to do with the fact that the Federal system is something that is going to be accessible, in a sense, if there is a Federal exchange. But I would have to go back and check and get back to you. I do not want——

Senator BURR. In fact, my understanding is, every member of Congress and every staffer who works for a member of Congress is under the State exchange program. They are no longer part of FEHBP. My point is simple. If it is that good, why would we not include all branches?

Mr. LEW. Yes. Senator, that is a detail that I am just not familiar with. I would have to go back and check and get back to you.

Senator BURR. Great. Thank you.

Mr. LEW. Thank you.

Senator BURR. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Roberts?

Senator ROBERTS. We will get back to you. That is the song I hear from an awful lot of people in the regulatory business, and it is a pretty tired country and western theme, it seems to me.

Mr. Lew, welcome to what some in the press have described as the "Grand Cayman Ugland House Rehab and Restoration hearings." In the Grand Caymans, they are very joyous about this hearing. I am not going to split the shingle on that with the exception to say the bottom line is, hopefully through tax reform we can lower the corporate tax rate, and this will not be a problem. You have indicated repeatedly that you did not know of this situation with regard to these investments, so I am not going to bother you with that.

Senator Burr is a stickler in regards to the over-regulation problem. It is even more of a problem, or at least a challenge to us, in that I think the President last night said that, if in fact his agenda is hindered by Congress or high water, he is going to have the ability, or will take on the issue with more executive orders, which means more regulations.

I have a whole series of questions on the four things that you have to achieve in regards to regulations under the President's own executive order, and all four, according to staff, when we meet with folks from Treasury or from the Department of Health and Human Services or IRS, whomever it is, to try to merge these regulations, we are not getting any answers.

Now, we talked about this in my office. You said, we do the best job that we can. I understand that: we will get back to you. But the "get back to you" stuff is getting a little bit old, more especially in the view of the people who are on the receiving end of regulations. But I am going to save that one too. I will submit it for the record. You will have a long time to go over those questions.

[The questions appear in the appendix.]

Senator ROBERTS. But over the past 4 years here, this administration has repeatedly brought up the issue of business aviation, general aviation, and the proposal to change the depreciation schedule for jets, agriculture aircraft, piston engine aircraft, from 5 to 7 years. The estimates I have seen allege this will raise $200 to $300 million a year, but it does not take into account the loss in tax revenue and jobs that will result from this change.

Now, if you take into consideration the list of the projections of the Federal deficit for this year, which could end up being $1 trillion, $850 billion to $1 trillion, the changes that you have proposed would reduce the fiscal year 2013 deficit by about two-millionths of a percent.

Now, based on this calculation, I think you can understand why someone like me gets a little bit hot under the collar, someone who is seeing our general aviation manufacturers in my State already lose 50 percent of their workforce during very difficult times, and why we would object to the seemingly unending attacks this administration continues to direct at the essential aviation industry, i.e., general aviation.

We are not talking about fat cat corporate jets, which has been used over and over and over again. The general aviation industry has become the pinata in regards to tax reform by this administration. I am more than a little tired of it.

Now, I have a "yes" or "no" question. If the administration continues attacking these hardworking, largely unionized American workers, which we can show has had a direct negative impact on sales, will we even have a U.S. general aviation manufacturing base in the next 10 years, or are we going to be flying Brazilian or French aircraft?

Mr. LEW. Senator, I know you asked for a "yes" or "no" answer. I have to say that the purpose of the policies that we proposed was to try to create a more fair tax code, and it was not aimed at trying to do any damage to the general aviation industry.

I think a number of the kinds of aircraft that you are describing would not be covered by the policy that we proposed, and I would look forward, if confirmed, to working with you to understanding if in fact that is not the case.

Senator ROBERTS. I appreciate that. It is just the adjectives that we use in the political system here that a particular industry is designated as being, as I said, a pinata or a target, and I know that is convenient. But we have a sales force out there that has already been cut in half, as I have indicated. We have good workers, we produce excellent product. If we make this change, we are going to be hurt.

Mr. LEW. The objective of the policy was not to hurt the general aviation industry, it was to look at what was an inequity in the tax code where the users of the jets had preferential tax treatment, regardless of whether they bought U.S. or foreign-made aircraft. If it has an effect that I am not aware of that is disproportionate, I would look forward to working with you on it.

Senator ROBERTS. Good.

The CHAIRMAN. Thank you, Senator.

Senator Schumer?

Senator SCHUMER. Thank you, Mr. Chairman. I apologize to the witness. We had an immigration hearing, and Lord knows——

Anyway, first question. As you know, unless Congress acts before March 1, sequestration will roughly impose $85 billion of across-the-board cuts. Now, rather than seek to replace the sequester with a balance of smart spending cuts and reforming tax loopholes, many of our friends on the other side are settling for letting the job-killing cuts take effect. Their only idea is to preserve the cuts but spread them out differently.

This strikes me as a little bit like rearranging the deck chairs on the Titanic rather than steering away from the iceberg. So, first question: does the administration agree the Republican proposals to merely move spending cuts around will not solve the problem? Second, economist Mark Zandi said sequestration would cause a 0.5-percent reduction in GDP for the entire year.

Do you believe the Republican proposals would reduce the hit to GDP caused by the sequester at all, or would the reduction in growth be the same?

Mr. LEW. Senator, first, thank you again for the very kind introduction this morning. I think that the analyses of the impact of such a dramatic and rapid reduction in Federal spending would hurt the economy at a time when the economy does not need a kick. It needs a little help, not a kick.

I think that if you look at the question of, should the sequester just be redistributed, in 2011 we agreed to reduce discretionary spending by $1.2 trillion. That is already putting a burden on all areas of government, including defense and all non-defense areas, and it is quite significant. I think it is the right challenge. We need to tighten our belt. We need to spend less. But I do not believe that the sequester can just be rearranged. We are already——

Senator SCHUMER. It would not change the reduction and the estimates of reduction in growth if we just did all cuts?

Mr. LEW. The economic impact would be the same. I think the damage it would do to important investments, from defense to education, would be wrong. I think what we need is a balanced approach which combines mandatory savings and revenues and finishes the job. We did $2.5-trillion of deficit reduction. We need to do another $1.5 trillion. We can get this done.

Senator SCHUMER. Great. Thank you. It makes sense. I mean, if you are just going to switch cuts from one place to the other, it is not going to change the reduction in growth that would occur. Probably the greatest reason—there are many—to avoid the sequestration, or just rearranging, is our economy is finally beginning to recover a little bit. This would snuff that out in a significant way. Zero-point-five-percent GDP is no small number.

Mr. LEW. It is not a small thing. One could certainly have something more rational than across-the-board cuts, but it would have the same economic impact, and it would do a lot of harm. So, it is not the right policy.

Senator SCHUMER. Right.

Mr. LEW. It was meant to not happen. It was not meant to be rearranged.

Senator SCHUMER. Right.

Here is another question I have which you will be involved with should you, and I believe when you, become Treasury Secretary. That is, TRIEA, the Terrorism Risk Insurance Extension Act. I worked with your predecessor and President Bush's Treasury Secretaries on this. It was last extended in 2007.

But it is the nature of insurance that you cannot wait for the last minute, because businesses who need to renew their policies may find the insurance companies either are not willing to provide terrorism coverage if the future of the program is in doubt or will raise the price so high that, in effect, they are not offering coverage, and then you cannot get new building refinancing and all the things that keep an economy going.

It is not just in New York, but in many areas with tall buildings that might be targets of terrorism. When TRIEA was last extended, there was some debate about the scope of the program or whether it was still necessary. The program was reformed, the need for it was reaffirmed, and the program was extended 7 years. If you talk to my constituents, I assure you that you would agree the program remains vital to obtaining insurance, regular insurance, to build and even to get financing.

Terrorism is just something that the private sector is not willing to do on reasonable terms. It is a little like flood insurance, but probably worse because we have less of a record about terrorism.

We do not know when it comes, and, if it does come, it could come in such a horrifying amount nobody wants to insure against it.

What is your view on extending TRIEA for 5 more years?

Mr. LEW. Senator, I am very familiar with TRIEA. I was chief operating officer of NYU on September 11th. I would not have been able to have had a university with insurance during the time I was there without TRIEA. I am less familiar with where it stands right now in the extension process and would look forward to working with you and exploring options.

Senator SCHUMER. Could you see the argument that you still need it, even though we are 10 years after 9/11?

Mr. LEW. I certainly understand that it was very much needed at the time. I have no reason to believe that it is not important, but I would want to become current in my understanding.

Senator SCHUMER. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Rockefeller?

Senator ROCKEFELLER. Thank you, Mr. Chairman.

Mr. Lew, I welcome you and your family. I welcome my opportunity to vote for you.

The chairman of this committee once called me "utterly predictable," and he is utterly correct. I have a focused mission in life, and I stick by it. You are one of the people who could help me make progress.

I have never really understood why it is that the Republicans are so adamant against raising revenues, because it does make sense. I do not know if it is Grover Norquist, I do not know if it is a Wednesday breakfast meeting they have every week to make sure that they—I just do not understand it, because, if you want to get things done in this country, you have to have revenue. You just have to have revenue.

So, one, I would like to know that you are on that side and that you would encourage, in the development of the budget and tax proposals, that there be more revenue.

Mr. LEW. Senator, I very much believe that we need to have a balanced approach to getting out of the fiscal hole we are in. I think that revenues are part of the solution. Nobody likes to raise taxes, but the choice is always between being able to pay our bills or not. If the choices are to cut more deeply into things like education and research or health care, I think that we need the right balance.

Senator ROCKEFELLER. All right.

Mr. LEW. The President's ratio of 2:1 seems about right to me.

Senator ROCKEFELLER. All right. Second question. You and I have talked about this before; we did in my office. It is something I care passionately about. It turns out, in fact, that the Earned Income Tax Credit is the greatest anti-poverty program in the U.S. Government, and it has an unbelievable effect in my State of West Virginia.

The Earned Income Tax Credit on the one hand, and the Child Tax Credit on the other—there are other tax credits which help balance out the inequality and help people to live, just frankly to live. I would hope that, as those are up for reauthorization, they

would be part of a 5-year reauthorization that the administration would support.

Mr. LEW. Senator, I have supported the Earned Income Tax Credit for many years and was proud to be part of the effort this year to extend the refundable credits again. They have a proud bipartisan history from the Nixon administration until today, and they are intended to encourage work and to make work pay. I think they do an important job.

Senator ROCKEFELLER. Great. The next—and maybe I will make it my final question just to please my chairman so he will give me some credit for efficiencies here. No, I guess I will not. [Laughter.]

Income inequality is a vast problem for this country, and there are a variety of ways that that can be attacked. But what were we, ranked 31st out of 34 developed countries in income equality? It is a disgrace. I would just hope that the administration would be strongly embarrassed by that as indeed I am, and that they would take that into account one way or another to effectuate a change in our standing in the globe.

Mr. LEW. Senator, I mentioned earlier, and I believe strongly, that it was important in the tax bill that was enacted in January that we took a step towards having the tax system play less of a role in contributing to inequality. The President made some announcements last night that also contribute to that. This has been——

Senator ROCKEFELLER. I have two more questions.

Mr. LEW. This has been decades in developing, and we need to address the problem.

Senator ROCKEFELLER. I have two more questions and a hostile chairman here.

You and I have talked about Medicaid. One of the things that I like about you is that you feel very strongly about Medicaid, and I think you have experienced Medicaid in your own life.

Medicaid is not only sustenance for all of long-term care, if you can spend yourself down low enough to qualify for it, but it is one of the great funders of child help, and it is also the easiest thing to attack. I am pretty sure that you feel very strongly about Medicaid and would fight for its protection as much as possible.

Mr. LEW. Senator, I do believe strongly in the Medicaid program. We do have to be careful in the Medicaid program to make sure we are not overpaying. Over the years there have been issues on that.

I have defended the program strongly, that it needs to be protected, but I have also been willing to take out a sharp pencil when there were practices that needed to be addressed either on the reimbursement side or in terms of the way the State programs were working. I think if we care about a program, we have to run it well.

Senator ROCKEFELLER. I agree with that. I am over on my time, and I apologize, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Isakson?

Senator ISAKSON. Thank you very much, Mr. Chairman. Thank you.

Congratulations on your nomination.

Mr. LEW. Thank you, Senator.

Senator ISAKSON. Thank you for your service to the country. You have repeatedly said that the administration addressed "too big to fail," that we needed to expand credit, that it is critically important that we complete the implementation of Dodd-Frank.

If you are confirmed, very shortly the first problem you may have as the Secretary of the Treasury is the implementation of a Dodd-Frank rule known as Qualified Residential Mortgage (QRM). Mr. Cordray just issued a QM ruling which I commend him on. I was scared to death they were going to overreach, but they did not, and they defined QM in such a way as to avoid predatory lending in housing but to protect traditional housing.

But Dodd-Frank also had a QRM requirement, and the pending rule, which has been circulated twice and pulled by the 6-member committee, would have required for risk retention the exemption of a 20-percent or greater down payment.

If that took place from the conventional mortgage market, you would withdraw fully 60 percent of the people buying housing from the marketplace, because nobody is going to hold risk retention against loans for that length of time.

Will you engage, as Secretary of Treasury, with HUD, with FDIC, with OCC, and the others on the committee, to come up with a reasonable approach for risk retention and exemption from Dodd-Frank?

Mr. LEW. Senator, I think that, if confirmed, I would very much, as the chairman of FSOC, engage in the issues of rules implementing Dodd-Frank. In terms of the relationship between the Department of Treasury and the Department of Housing and Urban Development, I would continue, as Secretary Geithner did, to work closely on those issues.

The QM rule and the QRM rule were obviously designed to address different issues. I appreciate the comments you have made about the QM rule. It is really designed to protect borrowers against institutions that fail to exercise proper due diligence, so they would hold accountability for their failures.

The QRM rule is really designed to make sure that we do not get back into a situation where institutions create risk to the system or create the risk that taxpayers will have to come in and bail out failed institutions. I would work on these issues going forward to make sure that the goals are achieved with the least burden possible.

Senator ISAKSON. Well, I understand this: Dodd-Frank exempted Freddie Mac, Fannie Mae, and FHA. If you end up with a conventional mortgage that cannot sustain the risk retention requirement, you will put the entire burden of financing housing in America on 2 institutions, Freddie and Fannie, and FHA.

FHA is in a difficult solvency position right now, and Freddie and Fannie owe the taxpayers $171 billion. So, it is critically important we get it right, and I would hope you would exercise leadership on that.

Mr. LEW. Senator, I think it is very important that we get private capital back into housing. Our goal is not to have the heavy presence of either Federal programs or federally backed programs, and I would look forward to working with you on these issues.

Senator ISAKSON. Well, thank you very much.

Second, Senator Schumer made the statement in his introduction that you have the unique ability to learn about a problem, study it for solutions, and implement those solutions. That is quite a compliment. We have a serious problem with spending, with the budget, with being out of process. It is broken in Washington.

On March 6th and February 15th of 2000, when you were in the administration of President Clinton, you testified before the House Rules Committee on the biennial budget. There were 40 members of the House and Senate in a bipartisan fashion.

Jeanne Shaheen and myself as the principal sponsors recommended the biennial budget process to change the paradigm where we appropriate in odd-numbered years and do oversight in election years, which are even-numbered years.

You have been very supportive of that, all the way back to 1993. But once again, like in the last question, can you really help exercise some leadership to get the administration to come on board, and let us try to work together to do that?

Mr. LEW. Senator, I have supported biennial budgeting for a long time and testified on a number of occasions in support of it. I have had my work on this cited by international figures in terms of following policies in their own countries to implement policies like that.

It has not been something we took a position on, I believe, in this administration, though there has never been any opposition to it. I would look forward to following up with you. It is fundamentally a matter of congressional decision-making. I understand that there has been resistance to the idea over the years, but I think that the record of the last 10 years only strengthens the case.

Senator ISAKSON. Well, I think also our inability to do budgets and appropriations on the Senate side and some of the difficulties we have had, demanded of us to change the paradigm and change the structure in which we make these considerations.

Last question on behalf of a constituent. Treasury has dictated, by March 1st of this year, everybody receiving benefits will get them either through direct deposit or through express cards. Is that correct?

Mr. LEW. I believe that is correct.

Senator ISAKSON. And I understand 90 percent of people have complied, but there are 10 percent out there, some of them veterans, some of them people who are in poverty, who do not have a checking account and do not have access to the direct express card.

Mr. LEW. I would actually have to follow up on that, Senator. I am not sure.

Senator ISAKSON. On behalf of my constituent, please do, because they want to know how they are going to get their money after March 1st.

Mr. LEW. All right. I will follow up on that, Senator.

Senator ISAKSON. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Lew, welcome. I was interested this morning—staff came in and said that they had done a count, and since 2001 the Congress

has passed 137 laws changing the tax code. Now, as you know, almost always these laws have helpful provisions. Nobody disputes that. But, with each one of these changes, the tax system gets more incomprehensible, more dysfunctional, and more byzantine.

So my question to you is, do you support the idea that it is now time for the Congress to make a break with this idea of just passing these piecemeal changes, actually put a hold on these piecemeal tax changes, and actually move to the kind of long-term bipartisan tax reform that Senator Baucus, Senator Hatch, and Chairman Camp are talking about? Should we put a hold on these piecemeal approaches?

Mr. LEW. Senator, I definitely agree that we should do the big job of tax reform, and I think we should do it now.

Senator WYDEN. But the question is, should we put a hold on the piecemeal approaches? Because, as long as we keep passing them, I think it is going to be tough to get the long-term reform.

Mr. LEW. I had not actually thought about whether there was an approach like the one you described. I would be happy to have a discussion with you about it. My own predisposition is we should just get the big job done, and anything that makes it easier to do is worth considering.

Senator WYDEN. All right.

You are going to have a large role in determining whether health care coverage is affordable for workers and families, because the IRS determines who is eligible for tax credits for health care and how much they would be eligible for.

Now, the IRS has already determined that affordability is going to be based on the cost of a worker's individual coverage, not the cost of family coverage. So we are going to have millions of workers, spouses, and dependents in a kind of regulatory no-man's land.

Now, in the Affordable Care Act, a provision was added that would have allowed an employee to take their employer's contribution, either the individual or the family, and shop for a policy that best fit their needs at a price that they could afford.

As we talked about in the office, that provision is no longer there, so we have millions of people, these working-class, middle-class people, who are pinched. They are in the middle. They are unable to afford the family coverage offered through their employer and ineligible for the subsidy that could be used by dependents on the exchanges. What do you think ought to be done to help them?

Mr. LEW. Senator, I think that, in getting the Affordable Care Act in place, there are a lot of hurdles between now and 2014. Job number one is to get it up and running. I would look forward to working with you and the members of this committee to ask and answer the questions about, are there gaps that need to be addressed, after that.

There are many things in the Affordable Care Act that require a lot of work to get in place. I must say, my first focus would be on making sure that we implement the law, but then I would be delighted to pursue with you looking at solutions to remaining problems.

Senator WYDEN. The *New York Times* and others in the press said that millions of low- and moderate-income families are going to be affected by this IRS decision, so this is not an abstract ques-

tion. I appreciate your saying that you are going to work with me and others on it. This is an urgent matter. These are not people who ought to get hammered. They have done nothing wrong. We had a provision that would have made a real difference to those families. It is not there anymore. I think it has to be a priority.

Let me ask you about one other area. We talked about it in the office. That is the electioneering that now takes place by tax-exempt social welfare organizations. This stems from the wake of the *Citizens United* case. There has been a proliferation of these entities that are organizing under 501(c)(4) provisions in the Internal Revenue Code, and they are really doing politics.

They get a tax break as social welfare organizations, but they are really ripping off the tax code because they are not social welfare organizations, they are doing politics. I think some of my colleagues had a little bit of a taste of how outrageous this has gotten.

Now, Senator Murkowski and I are going to be introducing bipartisan legislation to stop this, to take away that tax break when these organizations do not disclose. But I was very troubled by the fact that the IRS, in what is called the priority guidance plan, basically does not make cleaning this abuse up a priority.

My question to you is, when confirmed—I believe you will be; I am certainly supporting you—will you make it a priority to drain the swamp here? This is not a partisan issue; this is an abuse, a flagrant abuse, of the tax code. These are not social welfare organizations, they are electioneering, and they are doing it with the taxpayers' dime, and they are not disclosing. Will you make it a priority to fix this?

Mr. LEW. Senator, as a general proposition, I believe that the tax laws should be enforced and enforced fairly. If there is something wrong here, it should be looked at. There is appropriate distance between the Treasury Secretary and the IRS on enforcement matters, but on policy matters I think it is entirely appropriate to ask that question.

Senator WYDEN. This is something that is way wrong.

My time is up, Mr. Chairman. Thank you.

The CHAIRMAN. Thank you.

Senator Nelson?

Senator NELSON. Thank you, Mr. Chairman.

Mr. Lew, I just want to make a statement before I ask you a couple of simple little questions. First of all, when Leon Panetta was nominated to be CIA Director, I talked to a number of our CIA personnel in various parts of the world, and they were concerned because Leon did not have a background in intelligence.

My response was, anybody who has been Chief of Staff to the President of the United States can handle any job in the U.S. Government. Of course, Leon went on to prove that, so much so that then, for his next position, he was confirmed 100 to nothing as Secretary of Defense. Therefore, that is by way of saying to you, obviously, I support your nomination. You have handled that job of Chief of Staff very well.

The other thing I wanted to say was that there was a problem when you were Chief of Staff with OMB, in that OMB was continuing to try to run this country's space program. I went to you, and you started "massaging," perhaps is the best way to say it,

that the NASA administrators got to administratively run the space program without OMB folks saying, you do this, you do that, pursuant to the directives given by the Congress in the NASA Authorization Act by the Commerce Committee, which Senator Rockefeller chairs.

I want to thank you for that, because what you did was, you smoothed it out so that Senator Kay Bailey Hutchison and I could bring unanimity, and we got direction for the space program 3 years ago that otherwise was in turmoil. That is in no small measure to what you did. I want the folks to know that is what you did, and I want you to know how much this Senator appreciates it.

Mr. LEW. Thank you, Senator.

Senator NELSON. Now, I want to ask you, we have all of this international finance stirring, and a lot of that is going to run under your bailiwick. Give me your thoughts on it.

Mr. LEW. Well, Senator, the international financial situation is one that we do have to watch very closely. As much as we try to do our own business, we cannot separate ourselves from the world entirely. We can make sure our financial institutions are sound, we can make sure we run our policies appropriately. But look at Europe.

Europe is our largest export partner. If Europe has an economic or a financial crisis, that is something we have to worry about. It is something that, if confirmed, I would work on. But frankly, I have been working on it, even as Chief of Staff, because, in addition to worrying about the U.S. economy, we have been worrying about the exposure to the U.S. economy from risks overseas.

There are questions of demand overseas where that is directly going to determine the ability of U.S. exporters to have markets. There are issues of the financial interconnection, particularly with sovereign risk. If confirmed, I would work with this committee to give the President the best independent advice I could and to play a leadership role in the world economic community to advance U.S. interests.

Senator NELSON. Do you think, given the extremes of situations of the economies in countries like Greece, that they can right their ship?

Mr. LEW. I think that Europe has shown a resolve to deal with its problems, both as a union and individually in countries. But these are tough fiscal solutions that have to be put in place to fix the situation in some of these countries, much tougher than the choices we face.

I think that it is going to take some time. It is encouraging that there has been more of a willingness on the part of the broader European community to give some time, provided that there are assurances that progress is being made and risk is not just being shifted.

This is a fundamentally European problem, but it is one that has such an enormous impact on the United States' economy that the President and Secretary Geithner were deeply involved, I was deeply involved as Chief of Staff, and it is something that we cannot take our eye off of, because the risks that are potentially in the future are not just within our borders, but there are external risks that we have to safeguard against.

Senator NELSON. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Thank you, Senator.

Mr. Lew, Senator Schumer, in his introduction, mentioned your extraordinary talents and abilities. They have been referred to here a couple of times. We face extraordinary times. You mentioned yourself, it has been 3 decades in the making, but the American middle class has deteriorated. We face globalization. It is a far different world today than it was in 1986. The challenges facing the United States are far greater economically than they have been in the past.

What can you tell us today to show that you have the courage to step up and tackle this and be a great Treasury Secretary?

Mr. LEW. Well, Senator——

The CHAIRMAN. I mentioned before to you how, somewhat as an analogy, not quite the same, that the U.S. Solicitor General represents the U.S. Government before the Supreme Court, but the Solicitor General plays another role as well, as an advisor to the court.

I believe the Treasury Secretary has a dual role as well. That is, to perform the functions that the Treasury Secretary would ordinarily perform and do well, but I think there is another role. It comes down to stature and gravitas, courage, and stepping up, after pursuing your analytics, abilities, skills, and solutions, and having the courage to do something about it publicly, as well as privately within the administration.

So what can you say to us here today to show us that you are going to be, not just an ordinary Treasury Secretary, but that you are going to be a great Treasury Secretary, so that when your term is up you can look back and see that Secretary Lew was terrific, he got this country back on the right economic track? That includes tax reform, it includes all the multi-national issues, the globalization issues, that we all face. The world is changing so much.

I think there are three major changes. One is demographics. Most countries are finding an aging population with huge pressures. Second is globalization. It tends to have downward pressure on wages, one of the main reasons why U.S. jobs are hard to find, and it probably has some effect on middle-class globalization. Third is increases in productivity, which are inexorable. You cannot turn back technology. You can go forward, but technology has a cross-current effect on jobs.

So what can you tell us today to show us that you are going to be a great Secretary, that you are going to take on these issues?

Mr. LEW. Mr. Chairman, I have the highest regard for the roles of Treasury Secretary and Solicitor General as the kinds of positions in government where, while you work for the President, you have a responsibility to represent some values that may go beyond the administration you are in, and to have the requirement that you have to be able to go in and give the President your honest view, even if you disagree, and you have to be able to build support outside of the administration for difficult decisions.

I think that, if you look at my career from an early age, I have proven that I am not daunted by the challenge of going in before authority figures and speaking my mind. When I was in my 20s working for the Speaker of the House, it was not easy to look Dan

Rostenkowski in the eye and tell him I thought he was doing something that he needed to rethink.

He said something to me once, and I agreed with him when he knew I did not. He lost his temper, and he said, "Don't waste the air in this room if you tell me you agree with me if you think I'm wrong." It liberated me at the age of, like, 24, to never again hesitate, whether it was with a Speaker or with the President of the United States or a world leader, to speak my mind.

I do it respectfully. I try to do it without unnecessarily breaking china, but I do not believe that I have ever withheld my honest view from the President. As Secretary of the Treasury, I would be called upon in more circumstances to sometimes come in with hard messages. As Chief of Staff, it turns out you do not get to go to the President with a lot of good news.

The good news finds its way to the President pretty easily. I, for a year, had to walk into that Oval Office every day and tell the President there were tough choices and here is what I think, never mincing my words, never not saying what I thought. As Treasury Secretary, I would follow that kind of a path, and I would hope to work with this committee on a bipartisan basis to have the kind of relationship where we could talk to each other that way.

The CHAIRMAN. I appreciate that, but I was really getting at something else. It is clear that you can be a great staffer. I am not talking about being a great, courageous staffer and telling the President what you think and do not think. I am talking about something else.

I am talking about the public perception, the public demeanor, representing the United States around the world—across the country and around the world—being able to influence policy in a way that makes sense that most of us tend to agree with. We may differ around the edges, but most everybody in this room agrees what needs to be done. That is what I am getting at. What can you tell us about that?

Mr. LEW. Mr. Chairman, in the years I was at the State Department, I met with world leaders one-on-one. As White House Chief of Staff, I met with both world leaders and heads of major interests in this country. I think the position that you are in and the way you carry yourself in that position is where gravitas comes from.

I feel like, in the business dealings that I have had, it is about building trust, it is about having credibility, it is about speaking clearly and saying what you think. I have done more than my share of public speaking and appearances on television. I am not afraid of taking issues public and expressing complicated ideas in terms that people can understand.

I am not sure how to put a specific behind the question of gravitas, but I think the career path I have had—very few people leave the role of staff and become a member of the Cabinet. I have had a career path that is not the norm, and I think that that lends itself to the kind of gravitas that you are looking for.

The CHAIRMAN. Well, I wish you well, because the challenges are tremendous. Thank you very much.

Senator Hatch?

Senator HATCH. Well, thank you, Mr. Chairman.

Mr. Lew, do you need a break?

Mr. LEW. I am fine, thank you. Thank you for asking.

Senator HATCH. All right. I just want to make sure, because, unfortunately, this is one of the most important positions in the country, and this will go on a little bit longer, if you do not mind.

Mr. LEW. Do you need a break?

Senator HATCH. I have taken my break. When I need one, I will take one.

Mr. LEW. It depends if we are talking about 20 minutes or 2 hours.

Senator HATCH. Well, if you need one, just let us know.

Mr. LEW. Thank you.

Senator HATCH. Because we understand.

Senator Rockefeller raised the issue of why Republicans have such a tough time raising revenue. Well, the reason we have a tough time raising revenue is because we know that the Democrats will just spend it. They will not use it to pay down the national debt, which is astronomical. We also know that, if we taxed every dime that millionaires make, it would raise less than what the deficit is this year.

We have seen that time after time after time. We do not have any faith that these funds would be used to help get our spending under control and get our government under control. That is one of the reasons why I think that the Republicans are so loathe to raise taxes.

We know that fiscal calamity is primarily driven by the exponential growth in entitlement spending. We know that is a problem. You know it is a problem. Second, there are economic costs to tax increases: tax something—labor, capital, entrepreneurship—and you are going to get less of it. Third, there are practical limits to the politically designed tax increases on whatever the unpopular group is that is targeted. So like I say, these are problems that we as Republicans have, and they are legitimate concerns. I am sure you have legitimate concerns about these things as well as we do.

Frankly, I think you have done really well today. I have a great deal of respect for you. It is not easy to give a lifetime of service as a staffer and then a Director of OMB, a top staffer in the White House. My gosh, I have nothing but respect for people like you who give yourself to our government. I really have great respect for your wife and your daughter, your family, too.

Mr. LEW. Thank you.

Senator HATCH. Because it is tough.

Mr. LEW. That is something we agree on, Senator.

Senator HATCH. That is good. Well, I think we do not give our spouses nearly the credit that they deserve.

But some of these questions we do need to ask, just to make sure the record is clear. Now, let me ask one that hopefully will help make the record more clear. American taxpayers provided over $45 billion to Citigroup in late 2008 and early 2009.

Taxpayers backed hundreds of billions of dollars of Citigroup assets. Meanwhile, Mr. Lew, you reportedly received over $940,000 of compensation in early 2009, mostly comprised of "discretionary" compensation for work performed in 2008, and you received that a day before Citi received about $7 billion of taxpayer backing.

On January 29, 2009, President Obama remarked on Wall Street bonuses at the time and said, "That is the height of irresponsibility. It is shameful." He went on to say that, "There will be a time for them to get bonuses. Now is not the time." Elsewhere, he referred to Wall Street bonuses as "obscene."

Now, Mr. Lew, you wrote in a 2010 letter to Senator Grassley that "my compensation was in line with other management executives at the firm and in similarly complex operations." Now, that seems a little bit to me like saying, gee, dad, everyone was doing it. Unfortunately, that type of reasoning is exactly what I think led to this financial crisis.

Now, I have three questions related to your compensation. Let me just give them to you, and then you can respond to all three.

First, could you explain what you did in 2008 for Citi that warranted payment to you of close to $1 million, most of which was a bonus?

Second, what was it about your performance that merited your bonus from a company that was being propped up by taxpayer money, and are there any records of your performance assessment, or are there any assessments of your performance?

Third, your employment agreement included a clause stating that your "guaranteed incentive and retention award" would not be paid upon exit from Citigroup, but there was an exception, that you would receive that compensation "as a result of your acceptance of a full-time high-level position with the U.S. Government or a regulatory body."

Now, is this exception consistent with President Obama's efforts to "close the 'revolving door' that carries special interest influence in and out of the government?" I think that is a question that has to be asked, and I would appreciate hearing your response.

Mr. LEW. Senator Hatch, the work that I did in 2008 was running, as I said earlier, the business of the business in a year when the financial products of that part of the firm were not doing very well. I think I actually performed quite well in managing the business operations, shedding real estate and parts of the operation that were not necessary, reducing the costs in a very considerable way.

I am not familiar with records that were kept, so I do not have access to things that I do not know about. The experience that I had in the private sector has given me a perspective that I think enhances my ability to perform, both in the role that I am nominated for and in the roles I have had.

I have practiced law. I have worked at a university. I have worked at a financial institution. I think that if I had not had a set of experiences like that I would not be sitting here today speaking with confidence that I could undertake the responsibilities of Secretary of the Treasury.

As far as my 2008 compensation goes, it was for my work in 2008. I do believe that it was comparable to compensation for people in positions like mine in the industry. As a broader discussion on compensation, I do not think there is anything that has not been fully transparent about both what I did and what I earned.

Senator HATCH. Could you tell us how much money you made in 2008 before you got the bonus?

Mr. LEW. My base salary, I believe, was $350,000.

Senator HATCH. All right. Well, thank you, sir. That is a question I felt had to be asked, and I appreciate your answer. Go ahead, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Portman?

Senator PORTMAN. Thank you, Mr. Chairman. I thought the question posed by Senator Baucus earlier was very interesting, and I am glad I was not on the other side of the table to have to answer it. But I have been before this committee for a confirmation hearing, and they were much tougher on me, that is all I can say. [Laughter.]

But that is sort of the ultimate question. Senator Hatch has posed it earlier in his reference to Gallatin and what kind of Secretary of the Treasury he was. There are different roles. Having been a staff person in OMB and USTR—and I have had the same balance that you will be facing, but Treasury is different.

I think it is a different job than Chief of Staff or in OMB in the context of what both the ranking member and the chairman were talking about, and it does have to do with taking public positions. It is not about meeting with foreign leaders or meeting with the President and being frank in the Oval Office, it is about being willing to have the courage of your convictions and to talk about these issues at a time when our country is in trouble.

I think we are truly in trouble with our debt and deficit at record levels and the weakest recovery we have had in our history, in terms of getting out of our economic doldrums. I think it requires a Secretary of the Treasury, because I think this is—Gallatin is quoted as saying, from Senator Baucus, "no more responsible position." It is true. I mean, this is it.

We talked about tax reform and entitlement reform earlier. I have just three quick questions for you, all of which may be the kind of questions where sometimes you need to break some china to do the right thing. But on entitlement reform, Senator Hatch has talked about the importance of it.

CBO, which is, again, the nonpartisan group here in Congress that gives us our information on what is going to happen in the future, they have said that over the next 10 years Social Security, Medicare, and Medicaid will double in their costs.

So you have about a 100-percent increase, about $1.5 trillion to $3 trillion in these programs over the next 10 years. During that time, other entitlements are going to go up 39 percent, discretionary spending only 10 percent. So it is very clear where the spending problem is. It is not only the biggest part of our budget now, it is the fastest-growing part of our budget. They are incredibly important programs, but they are not sustainable in their current form.

By the way, another thing that is causing a problem in our deficit and debt is the interest payment. They have told us that in the next 10 years our interest payment is going to go up 284 percent, the bulk of which of course relates to the increase in spending on the entitlement side, which requires us to borrow more.

So my question to you is the obvious one, which is, are you willing to take this on? The President has talked about it a lot. He has

even said he refuses to pass this problem on to another generation of Americans. But so far, that is what the administration has done, because the few changes that you have proposed in your budgets, which as you know have not gotten votes from Democrats or Republicans, really just are around the edges.

So my question to you is, are you willing to step forward on this and show the kind of leadership that Senator Baucus is talking about? He may be talking about other kinds of leadership. I know he agrees that this is a huge challenge that we face. If you could answer that question with regard to entitlement reform——

Mr. LEW. Senator Portman, I agree that we need to tackle entitlement reform, and health programs are a big part of that. I think that we look at the trajectory and the gap between the revenues that come in in a program like Social Security—it is not the entirety of the program, but it is a gap. Social Security is 75-percent funded by the payroll tax forever, but it leaves a gap. We need to deal with that.

Senator PORTMAN. Like, $9 billion this year.

Mr. LEW. Yes. We need to deal with it in a way that protects Social Security in a balanced, fair way. I think that if you look at the arc of my career, whether it was in 1997 going and presenting the agreement that Senator Domenici and I worked through together on the Balanced Budget Act, going into the Democratic caucus in the House and the Senate, presenting it, advocating it, winning support for it, that was not easy. That was the courage of my convictions.

Senator PORTMAN. Yes. It is not easy.

Mr. LEW. You know it is not easy. You have been OMB Director.

I think if you look at the current debate, and Senator Baucus knows this, I have gone before the Senate Democratic caucus many times, telling people what I thought needed to be told, even if it was not the popular thing at the time.

I believe in a certain set of things, and we may disagree on some policy, but on the things that I believe in, I have never, never withheld my judgment and have always driven as hard as I could to get the job done. I would continue to do that. It would be a broader set of issues, a different playing field, that is clear.

Senator PORTMAN. A different audience.

Mr. LEW. But the thing I would say that is different about Treasury is, it is a job that requires one to transcend politics in many respects. That is what Senator Baucus was getting at in the comparison to the Solicitor General's Office. I understand that, and I am looking forward to that.

Senator PORTMAN. Before the chairman tells me my time is up, because it just about is, quickly, TPA. Not to have the ability to negotiate trade agreements makes it difficult to take the President up on his challenge last night for us to have a European-U.S. free trade agreement of some sort, and also to complete the Trans-Pacific Partnership, because, without the ability to be able to up-or-down vote here in Congress, in my experience other countries are not willing to put their last and best offer on the table.

This is the first administration since FDR, of course, not to ask for Trade Promotion Authority. Why? One and two, are you willing to ask us to give you and to work with this committee and the

Ways and Means Committee on Trade Promotion Authority so we can indeed make good on the President's commitments last night?

Mr. LEW. Senator, I have, for 30 years, worked to try to advance free trade and fair trade at times when it was extremely unpopular. I worked to make sure that we did not have protectionist policies in a Democratic House in the late 1970s, early 1980s.

I worked in the Clinton administration and the Obama administration. I am proud of the work I did helping to shape the TPP when I was at the State Department. I think it was a great announcement that the President made yesterday about Europe, and I would look forward to working with you and the members of this committee to have fair and free trade that expands markets to——

Senator PORTMAN. Will you be requesting Trade Promotion Authority?

Mr. LEW. I would defer to the discussion that still has to take place on that. I would certainly engage on it.

Senator PORTMAN. I will ask my last question as a written question, since I am over time.

Thank you, Mr. Chairman.

The CHAIRMAN. If you want to take more time, go ahead.

Senator PORTMAN. Well, the final one is on retirement savings; we had this question posed generally earlier by Senator Cardin. This committee has worked over the years, along with the Ways and Means Committee starting in 2001, to expand retirement savings.

The theory has always been, if you can get more businesses, particularly small businesses, to offer a 401(k) plan and get more people to take up an IRA, that you can expand people's ability to save for their retirement privately to help take some of the pressure off Social Security. Some of us are concerned that sometimes the administration seems less committed to that going forward. In 2006, as you know, Congress chose to make that part of the 2001 Act permanent, so the expansions that occurred then are in place.

Our question for you today would be, are you committed to the private retirement savings approach? Specifically, do you think that 401(k)s work, and do you think that they should be an important part of the 3-legged stool—savings, 401(k)s and IRAs, and Social Security—for people's retirement?

Mr. LEW. Senator, I think that they work better for people at the higher end of the income scale than people in the low to the middle end of the scale. I think we need to look at ways to get people to participate more in savings plans.

It is obviously harder, when you are spending all of your disposable income, to save, no doubt about that. But there are things that we can do to make it easier, more attractive, and I would look forward to working with you and other members of the committee on that. I do believe we need a 3-legged stool.

Senator PORTMAN. Both of these men have been leaders on that. We want to work with you on it. But just one point, quickly. Unless you provide that incentive to that small business owner to provide a plan, then those workers who are concerned about it are not going to have the alternative to be able to save for their private retirement, plus the matching contribution is key, as you know.

So we just hope the President would work with us on that to expand retirement savings in a way that gets more small businesses, not fewer, involved in providing that great opportunity for peace of mind in retirement.

Thank you, Mr. Chairman.

Mr. LEW. Thank you, Senator.

The CHAIRMAN. Thank you, Senator.

Mr. Lew, I appreciated your comments, I think in your opening statement and also in answer to questions, that you want to pursue regular order in pursuing comprehensive tax reform, which essentially, certainly on the business side, is base broadening and rate reduction. On the individual side, you were a little vague there, but certainly we need base broadening and also potentially rate reduction there depending upon the degree that it is necessary.

I just want to say that this committee is going to act very forthrightly in pursuing tax reform in the regular order. That is, the committee itself will mark up legislation. I am sure I can speak for the House Ways and Means Committee, and say that is their preference too. I think I can speak for both sides of the aisle, that both parties, those on the Finance Committee and the Ways and Means Committee, and many other members of the Congress, want to pursue tax reform the same way, in much the same way we did back in 1986. That was wide open, freewheeling, amendments offered.

It is true that, to some degree, 1986 began with the administration with Treasury I and Treasury II, but it is also true that both bodies got very engaged and very involved and found a solution. I can remember in this committee—Senator Packwood was then chairman—we reported out the 1986 bill unanimously. All members of the committee supported it, which was not expected earlier on.

So, I appreciate not only your willingness, but your enthusiasm in working with the Congress and, under the regular order, where the committees are doing their work, to pursue the tax reform. I do think that is a good vehicle as well to address growth and jobs and the other goals that are just so important.

Mr. LEW. And Senator, if I might add, I do not think there is any other way to accomplish it. It is too complicated. It has to be done by the people with expertise and responsibility. If confirmed, I would look forward to being a partner in that effort.

The CHAIRMAN. Thank you very much.

Senator Hatch?

Senator HATCH. Well, thank you.

Mr. Lew, I agree with the chairman that we need to do tax reform. We are going to need you to weigh in rather heavily. Hopefully we can do it in such a way that really does increase growth and pulls us out of the mess that we are in.

I would just make one other comment. I think you have to weigh in on TPA. It is ridiculous that this is the only President who, in my memory, has not asked for that power. Trade is going to be one of the best ways we have to pull us out of the mess we are in and to create the manufacturing jobs that the President suggested he would like to last night.

So, I think you are highly respected in this administration and by many of us, and I believe that, if you will weigh in, that is some-

thing that really has to be done or we could get into a massive mess here that is not going to be solved easily.

We would like to see free trade move much faster and much better than it is. Other nations throughout the world are entering into these free trade agreements, and we are being left out in the cold at a time when we need the jobs, we need the opportunities, and the unions need the jobs. Getting more and more jobs gives them more and more chances to organize. So, all of that fits together.

I would just encourage you to weigh in, because I know the President thinks very highly of you or he would not have put you in this position. That would be my counsel to you. I just want to thank you again for appearing and being willing to answer these questions. Frankly, I think you have done really well.

Mr. LEW. Thank you very much, Senator.

Senator HATCH. You bet.

The CHAIRMAN. Thank you, Senator.

I want to just emphasize, Mr. Lew, what Senator Hatch said. I do not think this administration has been as aggressive in pursuing trade agreements as it should be. To be honest, I had to twist some arms to get this administration even to agree to pursue TPP. They were not in favor of it at the beginning at all. I thought that was just totally short-sighted. We need TPP to engage in the Pacific.

Mr. LEW. I totally agree with you, Senator.

The CHAIRMAN. We are doing it. But anyway, this administration was dragging its heels at best.

Mr. LEW. I was on the side of the administration pushing for it, so I am glad you——

The CHAIRMAN. I appreciate that very much. Also, recently, when I was in Europe, I was very heartened to see the degree to which European countries want to pursue a trade agreement with the U.S. I might also add that TPA is a good opportunity to write a kind of trade authority with some provisions in it that would move us into the 21st century, move us forward, rather than just the old standard, garden-variety TPA. So, there are lots of opportunities here. Lots of opportunities here. I know you agree.

I would say that I know you are going to pursue them all, but I just urge also that you work mightily to find ways for both ends of Pennsylvania Avenue to work together. It is not just the Congress, it is both ends of Pennsylvania Avenue, because that is the way our Founding Fathers set this arrangement up. We just have to make it work.

Mr. LEW. I look forward, if confirmed, to doing that with you, sir.

The CHAIRMAN. Thank you. I wish you great luck. I mean, this is a tough job. I mean, Albert Gallatin said it was, and I agree with him. Good luck.

Mr. LEW. Thank you, Senator.

The CHAIRMAN. The hearing is adjourned.

[Whereupon, at 1:27 p.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Hearing Statement of Senator Max Baucus (D-Mont.)
On the Nomination of Jacob "Jack" Lew to be Treasury Secretary
As prepared for delivery

Less than two miles from where we sit today, at the entrance of the U.S. Treasury Building, stands a large bronze statue. One would assume the figure cloaked in colonial garb is Alexander Hamilton, America's first Treasury secretary.

Look again. This 12-foot-tall statue is of Albert Gallatin, the longest-serving U.S. Treasury secretary. In 1801, Thomas Jefferson asked Gallatin to serve in his administration.

Gallatin did not shy away from the role's challenges, but he did recognize the enormity. He said, "The place of the secretary of Treasury is more laborious and responsible than any other."

As Treasury secretary, Gallatin laid the policy framework for the rise of the United States as an economic engine. He established the fiscal discipline necessary to transform a young country into a great world power. Gallatin also helped orchestrate the Louisiana Purchase, doubling the size of the United States and bringing my home state of Montana into the young nation.

His work is commemorated in Gallatin County, Montana, and in the beautiful Gallatin National Forest, in Montana's Northern Rockies.

When Gallatin accepted the position, it was noted at the time, that he was placed in "a situation of trust." Today, we are here to consider the nomination of Jack Lew to be the nation's next secretary of Treasury. We are here to determine if he is worthy of this "situation of trust."

Jack Lew has a long and distinguished career focused on public service, with experience in both academia and on Wall Street. During one of his stints as OMB Director, he helped guide our nation through one of the greatest periods of economic growth in America's history. We will hear more about his record from Senators Schumer and Domenici in a moment, but there is no doubt he is experienced.

As Gallatin said, there is no more laborious or responsible position than Treasury secretary. Mr. Lew will have his work cut out for him.

Our economy today is on the road to recovery, but it is a road with many twists and turns. Last week, CBO released a report showing the deficit as a percentage of GDP from 2012 to 2015 will be cut in half. And the debt to GDP ratio will be stable for the next five years.

The Budget Control Act of 2011 and the end-of-year fiscal cliff agreement – both bipartisan – have made a difference. Nearly $2.4 trillion of deficit reduction has been locked in for the next 10 years. But while progress has been made, the job is certainly not done.

We have many tough decisions ahead of us. The first challenge is the sequester – across the board cuts to programs starting in just over two weeks. Then we quickly face the threat of a government shutdown.

The sequester will cut critical programs including Medicare, rural development and early education. We will need to work together – Republicans and Democrats, House and Senate, with the administration – to prevent indiscriminate cuts and lasting economic damage.

The state of the economy is still fragile. The unemployment rate rose slightly in January and is projected to remain stubbornly high, 8 percent in 2013 and 7.6 percent in 2014. These numbers are troubling. Combined with the more favorable deficit numbers, the unemployment figures show that we cannot take our eye off the ball – economy and job creation.

Mr. Lew, we need you to concentrate on three areas to provide greater economic growth and certainty for the nation.

First, focus like a laser on job creation. Do not get distracted. As the leader of the President's economic team, you must put in place policies that create more jobs and spark economic growth.

Unemployment near 8 percent for the next two years is unacceptable. Use your office to develop new ideas to boost job creation and to relieve small businesses of needless regulatory burdens.

Second, you must help return predictability and stability to our nation's capital. We have to get off this roller coaster of crisis after crisis.

These crises are frustrating the American people and harming the economy. You need to help us achieve some stability in fiscal policy as the economy continues to repair itself after the financial meltdown in 2008. That will help give businesses and families certainty and confidence.

Finally, we must simplify our tax code for individuals and businesses. We need to make the system fairer and help make U.S. businesses more competitive in the global marketplace.

As Treasury secretary, you will be in a position to help make tax reform a reality. We will need not only leadership, but solid ideas and technical help. We will be counting on your deep experience in the policy world to help us achieve comprehensive tax reform.

Over the past two years, this committee has been moving steadily forward on tax reform. America's tax code has become too complex for both individuals and businesses. The rules have not kept pace with today's transactions.

The last tax code overhaul was in 1986. Our world economy has changed drastically in the past three decades.

Our tax code has not caught up and is now acting as a drag on America's economy.

This is not some academic exercise. Tax reform is a real opportunity to spark the economy and create more jobs. As secretary, I expect you to be a partner as we tackle tax reform.

Now, Mr. Lew, members of the committee are going to ask you some tough questions today. That is our right and responsibility. In fact, I will ask you to address my concerns that the administration is being distracted from what should be the main focus — job creation. But we'll get to that in a minute.

I am confident that in the tradition of this committee, the questioning will of course be in a respectful manner and that these questions will focus on how we can best move our country forward.

Mr. Lew, welcome. As you follow in Secretary Gallatin's footsteps, I encourage you to embrace this challenge as you chart your own path forward at Treasury – pending your confirmation. Recognize the great responsibility you have, ensure our government and finances are sound and help us remain a great world power in this competitive global economy.

###

STATEMENT OF HON. ORRIN G. HATCH, RANKING MEMBER
U.S. SENATE COMMITTEE ON FINANCE HEARING OF FEBRUARY 13, 2013
NOMINATION OF JACOB J. LEW TO BE SECRETARY OF THE TREASURY

WASHINGTON – U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, today delivered the following remarks during a Senate Finance Committee hearing considering the nomination of Jacob Lew to serve as Treasury Secretary:

Thank you Mr. Chairman, and thank you Mr. Lew for joining us here today. I look forward to hearing Mr. Lew's testimony today and finding out more about his knowledge, background, and qualifications for this very important position in the President's cabinet.

As we all know, the U.S. Treasury Secretary is charged with a variety of responsibilities.

Mr. Lew, I know that you are well-versed in budget matters, but those are not the main responsibilities of a Treasury Secretary.

I believe that I already have a good understanding of your budget views, including your opinion that we need higher taxes and much more revenue to address our nation's fiscal problems. I also know about the Obama Administration's reluctance – which I assume you share – to engage in structural reforms to our entitlement programs, even though they are main drivers of our debts and deficits.

I do not share your views on these matters – neither do the American people. And, as a Social Security and Medicare Trustee, the Treasury Secretary cannot simply hope these problems will go away.

But, the Treasury Secretary has responsibilities that extend far beyond the budget.

These responsibilities include: implementation of financial regulations; oversight of financial stability; debt management; tax collection; oversight of economic sanctions; defense of the value of the U.S. dollar; disbursement of payments; implementation of certain housing policies; assisting Congress with its oversight responsibilities, and oversight of entitlement trust funds.

So, while I admire your budget prowess and understand your views on fiscal policy, I know far less about your knowledge and experience in many of these other areas.

I hope to learn more today.

There remains a large amount of uncertainty in financial markets from the as yet unknown aspects of Dodd-Frank. Hundreds of Dodd-Frank rulemaking requirements are either

still in the works or have not even been proposed yet. Meanwhile, lobbying continues, with hundreds of meetings having occurred between banks and their lobbyists on the one hand and Treasury and other regulators on the other.

Whoever becomes the next Treasury Secretary ought to have a firm grasp of financial markets and risks to stability of our financial system. Dodd-Frank assigns responsibility for assessments of, and warnings about, threats to financial stability to the recently created and largely nontransparent Financial Stability Oversight Council, or FSOC (F-SOCK), which is chaired by the Treasury Secretary.

In addition, the Secretary of the Treasury plays a key role in the international financial sphere. This is an area where we have seen a real lack of leadership from this Administration.

With no real U.S. economic leadership, the world is left with a policy vacuum. If the United States does not lead, other nations will. Recent analysis shows that China has now surpassed the United States as the world's largest trading nation.

Furthermore, the risk of international currency wars is rising, which could push the U.S. back into recession, or worse.

Statements by U.S. political leaders at international conferences about currency policy are not enough. Without a clear policy, and a coherent strategy to advance that policy, the international monetary system will continue to be adrift.

Our future economic competitiveness depends upon the United States leading efforts to establish a fair, stable, and transparent global financial and currency system based on market principles.

I look forward to hearing your views about these important matters before the Treasury and your plan of action if you were to be confirmed.

In addition, I understand that you worked as Managing Director and Chief Operating Officer of two units of Citigroup, but it is unclear what your exact roles and responsibilities were.

So far, you have indicated that you coordinated operations, technology, human resources, and maybe legal and financial activities. But, we know very little about your knowledge of the activities and practices of the units for which you were the Chief Operating Officer.

Some of the units' activities included proprietary trading along with sales and marketing of risky investments. If you knew about the marketing and sales of those investments, it would be instructive for us to find out what you knew. If you did not know much about them, then it would be instructive for us to find out why, and to determine exactly what your responsibilities were during your years at Citi when you were very well compensated, including times when Citigroup was being propped up by American taxpayers.

These are important questions because, if you are confirmed as Treasury Secretary, you will be responsible for overseeing the implementation of regulations directed at some of the very practices undertaken by the Citi units that you operated.

For example, as Treasury Secretary, you would be responsible for coordinating implementation of the so-called "Volcker Rule," which is intended to separate proprietary trading from federally-insured financial activities.

You have stated that you support the Volcker Rule. Yet, you were the Chief Operating Officer over two units that engaged in the sort of activities the Volcker Rule is meant to prevent.

Therefore, if you were to be confirmed, it could lead to an awkward situation in which, in your role as Chair of the FSOC, you would effectively be saying to financial firms: Do as I say; not as I did.

These are not trivial matters. Indeed, they bear directly on your qualifications to serve as the next Treasury Secretary.

If the committee was given time to examine your record more thoroughly before today's hearing, I'm sure many of these questions would have already been answered. As it is, we'll have to explore these matters here today.

Finally, I just want to mention that, when we met to discuss your nomination, I told you that I was very dissatisfied with the Treasury Department's level of responsiveness to my letters as well as letters from my colleagues. In your own written statement, you pledge to "maintain frequent consultation with Members of this Committee." I appreciate that promise and want you, if confirmed, to be responsive in a timely manner.

Once again, I want to welcome Mr. Lew and thank him for his willingness to serve and for his past public service. Mr. Chairman, I look forward to what I hope will be an informative hearing.

###

Jacob J. Lew
Nominee for Secretary of the Treasury
Opening Statement
Senate Finance Committee
Confirmation Hearing
February 13, 2013

Introduction

Thank you, Mr. Chairman, Ranking Member Hatch, and Members of the Committee for welcoming me. It is a privilege to be considered by this Committee as the President's nominee to be the Secretary of the Treasury.

I want to thank Senator Schumer and Senator Domenici for their gracious comments. I have had the great fortune to work with both of them over many years, and I am honored they are here this morning.

I am especially thankful to my wife, Ruth, my daughter, Shoshi, my son, Danny, his wife, Zahava, and my grandchildren. Public life demands much from our families, and I deeply appreciate their support and sacrifice over many years of long days and missed family time.

And while my parents are only with me in spirit today, I know I am sitting here because they nurtured in me lasting values and an enduring commitment to serve our country.

I am grateful to President Obama for asking me to lead the Treasury Department. It has been my honor to serve in his cabinet and as his chief of staff, and I am humbled by his continued faith in me.

Finally, I want to thank the Members of this Committee for meeting with me over the last several weeks and sharing your insights. The Finance Committee plays a singular role in defining our nation's tax, trade, health care, and Social Security policies. And with a long history of cooperation and collaboration, this Committee stands out as a clear example of how bipartisanship can thrive and produce real results for all Americans. I pledge that if confirmed, I will maintain frequent consultation with Members of this Committee in accordance with the spirit of respect and understanding that has been this Committee's hallmark.

Professional Career

Forging bipartisan consensus is not an abstract idea for me. It is the fundamental thread that spans my professional life. Early in my career, the great Speaker Thomas P. O'Neill, Jr. was a mentor to me. And by asking me to take part in the negotiations that led to the historic agreement with President Reagan to save Social Security, he allowed me to gain a deep understanding of what could be accomplished through bipartisan cooperation.

Working across the aisle while serving under President Clinton, I helped negotiate the groundbreaking agreement with Congress to balance the federal budget. And as budget director, I oversaw three budget surpluses in a row even as we pursued policies to speed economic growth and create jobs.

My experience in leadership positions outside government has proven that working collaboratively to solve problems is a universal necessity. At New York University, the largest private university in the country, I was responsible for helping to forge the tough choices to make sure the university would continue to make critical strides within the constraints of limited resources and growing demands. During my time at Citi, I was part of the senior management team trying to drive organizational change at one of our nation's largest banks.

With my return to public service in this Administration, building partnerships has been central to getting things done. At the State Department, I worked alongside Secretary Clinton to promote our country's national security and international economic policies around the globe. Under her direction, America's leadership abroad was reinvigorated through diplomacy and engagement, and diplomatic missions were transformed to meet the needs of the day.

At the Office of Management and Budget, pursuing sound fiscal policy required transcending politics and making tough calls. We eliminated and cut programs, and we worked with Democrats and Republicans to pass the Budget Control Act, which has reduced federal discretionary spending to historically low levels.

Finally, as the White House Chief of Staff, I have had the opportunity to work directly at the side of the President who has always believed, as I do, that neither party has a monopoly on good ideas. The fact is, we do best for the American people when we can find common ground to move our country forward. We saw that most recently when the Administration and Congress acted together to protect the middle class from sweeping tax increases that could have thrown our economy back into a recession.

What Has Been Accomplished

Because of my experience, I approach the challenges that lie ahead with a clear understanding of their complexity and significance. That experience has also given me a

profound respect for Secretary Geithner and for the women and men of the Treasury Department whose remarkable record of accomplishment I would like to acknowledge.

When President Obama came into office, the economic conditions were the worst our nation has seen since the Great Depression. The President moved quickly to break the back of the financial crisis and reignite growth, and because he, along with Congress, responded with great speed and force, our economy is in better shape today.

Over the past 35 months, the private sector has created more than 6 million new jobs. Taxpayer money that saved the financial system has been mostly repaid. Rules are in place so that the financial system is safer and taxpayers are not responsible if a big firm fails again. The housing market is recovering, and home values are stabilizing. We have isolated Iran from the global financial system and established what is widely regarded as the toughest sanctions regime in history. We have signed a series of trade agreements to open up markets for American goods and level the playing field for American workers and businesses. Our auto companies are once again growing, innovating, and creating jobs. And we have made substantial progress reducing our deficit in a balanced way.

More To Do

So we are in a better position today. But as we all know, the work to create a sounder economy and a safer world remains unfinished.

Our top priority is to strengthen the recovery by fostering private sector job creation and economic growth at a time when we must make sure our economy remains resilient to headwinds from beyond our shores. That means making it easier to sell American-made goods abroad and expand manufacturing in the United States. It means working with our partners around the globe and through organizations like the G20 to bolster the international financial system and promote global economic stability. It means moving forward on the work to complete financial reform so that the system is less vulnerable to crisis, with greater protections for investors and consumers. And it means reforming the tax system so American businesses can thrive and remain competitive.

At the same time, we must put our nation back on a path of fiscal sustainability. Over the past two years, we have locked in $2.5 trillion in deficit reduction through spending cuts and revenue increases. And we can do even more to shrink the deficit over the next decade through a balanced mix of spending reductions and tax reforms, and sensible reforms to Medicare that will help the program stay sound in the future.

But even as we move forward with deficit reduction, we need to make sure we leave sufficient room for critical investments in education, research, and infrastructure that we need for our economy to grow and compete globally. We also have to avoid doing anything to degrade our national security or derail the economic recovery through abrupt moves in the short term. That is why we cannot allow the series of harmful automatic spending cuts known as the

sequester to go into effect on March 1. These cuts would impose self-inflicted wounds to the recovery and put far too many jobs and businesses at risk.

Conclusion

In closing, I would like to make one final observation. In recent years, some have argued that Washington is irrevocably broken. That our government cannot tackle the nation's most serious problems. That bipartisanship is a thing of the past. I disagree.

I have reached across the aisle to forge honorable compromises my entire professional life. I have been involved in almost every major bipartisan budget agreement over the last 30 years. In this chamber alone, the list of Majority Leaders I have been privileged to work with includes Howard Baker, Bob Dole, Robert Byrd, George Mitchell, Trent Lott, Bill Frist, Tom Daschle, and, of course, Harry Reid. So I have seen and learned a lot. And I can honestly say that the things that divide Washington right now are not as insurmountable as they might look.

The truth is, we all share the same goals. We want an economy that is expanding. We want a private sector that is robust. We want a vibrant job market that gives anybody who works hard the chance to get ahead. We want a financial system that helps families save and channels investment to support innovation and entrepreneurs. We want a strong housing market. We want a global economy that is prosperous, inclusive, and secure. We want a vigorous manufacturing base and a level playing field for American companies. And we want a government that lives within its means.

It is going to take a lot of hard work to achieve these goals. We have plenty of obstacles ahead. But when I think of what our nation has been able to achieve since our founding, I have no doubt that we will work together to find solutions to today's challenges.

Mr. Chairman and Members of the Committee, I am grateful to you for considering my nomination, and I would be happy to answer any questions you may have.

###

SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

   Jacob Joseph Lew
   Jack Lew

2. Position to which nominated:

   Secretary of the Treasury

3. Date of nomination:

   January 22, 2013

4. Address: (List current residence, office, and mailing addresses.)

5. Date and place of birth:

   New York, NY
   August 29, 1955

6. Marital status: (Include maiden name of wife or husband's name.)

7. Names and ages of children:

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Carleton College 9/72-6/73
Harvard College 9/75-6/78 (AB, 1978)
Georgetown University Law Center 8/79-5/83 (JD, 1983)

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

City of Boston, Office of Management and Budget, Deputy Director of Program Analysis, 1978-1979 (Boston, MA)

US House Democratic Steering and Policy Committee (Washington, DC)
- Deputy Director, 1979-1985
- Executive Director, 1985-1987

Van Ness, Feldman and Curtiss (Washington, DC)
- Of Counsel, 1987
- Partner, 1988-1991

Democratic National Committee, Campaign '88 Issues Director, 1988 (Washington, DC)

Center for Middle East Research, Executive Director, 1992-1993 (Washington, DC)

White House, Special Assistant to the President, 1993-1994 (Washington, DC)

Office of Management and Budget (Washington, DC)
- Associate Director, 1994
- Executive Associate Director, 1995
- Deputy Director, 1995-1998
- Director, 1998-2001

Georgetown University Public Policy Institute, Research Professor, 2001 (Washington, DC)

New York University, Executive Vice President and Clinical Professor of Public Policy, 2001-2006 (New York, NY)

Citigroup (New York, NY)
- Managing Director and Chief Operating Officer of Global Wealth Management division, 2006-2007
- Managing Director and Chief Operating Officer of Citi Alternative Investments division, 2008-2009

Department of State, Deputy Secretary of State for Management and Resources, 2009-November 2010 (Washington, DC)

Office of Management and Budget, Director, November 2010-January 2012 (Washington, DC)
White House, Assistant to the President and Chief of Staff, January 2012-present (Washington, DC)

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

White House Commission on Aviation Security, Member; 1997
Corporation for National and Community Service, Board Member, 2004-2008 (Washington, DC)

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

Kaiser Family Foundation, Trustee (2007-2009)
College Board Task Force on Higher Education Reform (2006)
Center on Budget and Policy Priorities, Board Member (2008-2009)
Tobin Project, Board Member (2006-2009)
Hamilton Project, Brookings Institution, Advisory Board Member (2006-2009)
City Year New York, Advisory Board Chair (2002-2009)
Institute for Policy Integrity, NYU Law, Advisory Board Member (2008-2009)
IDT Corporation, Board Member (2001-2003)
CVCI Private Equity Fund, Limited Partner (2007-2010)
Citigroup, Managing Director (2006-2009)

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Brookings Institution, Hamilton Project, Advisory Board Member (2006-2008)
Hebrew Institute of Riverdale, Member (2001-present)
Council on Foreign Relations, Member (2006-present)
National Academy of Social Insurance, Member (2002-present)
Council on Excellence in Government, Member (2001-2008)
Beth Sholom Congregation and Talmud Torah (1992-2010)

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate.
N/A

b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

N/A

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I currently serve as Assistant to the President and White House Chief of Staff, a position that I have held since January 2012. Prior to that, I served in the Executive Branch as the Director of the Office of Management and Budget (OMB) from November 2010 through January 2012 and Deputy Secretary of State for Management and Resources from January 2009 through November 2010. I began my career as the Deputy Director of Program Analysis in the City of Boston's Office of Management and Budget from 1978 through 1979. After moving to Washington, I worked from 1979 through 1987 as the Deputy Director and then Executive Director of the House Democratic Steering and Policy Committee. I also worked in the Executive Branch from 1993 through 2001, serving first as Special Assistant to the President from 1993 through 1994 before moving to OMB where, from 1994 through 2001, I served successively as Associate Director, Executive Associate Director, Deputy Director and Director. In the private sector, I have served as a law firm partner, Executive Vice President and Clinical Professor of Public Policy at New York University, and as Managing Director and Chief Operating Officer of business units at Citigroup.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

If confirmed, I will remain an employee of the U.S. government.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of the Treasury's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with Treasury's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of the Treasury's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with Treasury's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

Apart from my duties as a government official during the past 10 years, I have had minimal engagement in legislation and policy-making. While employed by New York University, I had occasional meetings with Members of Congress and local government officials on education policy.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of the Treasury's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with Treasury's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts

None

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes

Questions for the Record
Nomination of Jacob J. Lew to be Secretary of the Treasury
Hearing Date: February 13, 2013

Chairman Baucus

Question 1:

Mr. Lew, many people who work with lower income taxpayers see much promise in a program operated by the Treasury Department, namely the tax time savings bond option available on the federal tax form. Organizations like Rural Dynamics, Inc. in Montana need all the tools they can get to help more individuals and families achieve economic independence. The tax time savings bond helps people save who have never saved before, do not have savings accounts, or would like to save as a gift for their children or grandchildren.

I am concerned about the future of tax time savings bonds. Tax refund time is when many Americans have best the opportunity to save. And the savings bond program is a secure, simple, and increasingly popular way for many Americans to save. For example, in the 2012 tax filing season, the tax time savings bond policy enabled 35,007 people to save $20.3 million in savings bonds, an average savings of $579. That is nearly twice the total amount that was saved at tax time in 2011. If we are trying to get more Americans to save, those are pretty impressive numbers.

Are you committed to making savings bonds accessible and, in particular, continuing the tax time savings bond program?

Yes. I am committed to making savings bonds accessible through a program that is safe, simple, and secure. My understanding is that Treasury plans to offer paper bonds through the tax time savings bond program for the 2013 tax year and is evaluating ways to make electronic savings bonds more accessible through the tax time program in subsequent years.

Question 2:

One program implemented through the Community Development Financial Institutions Fund at the Department of Treasury is the New Markets Tax Credit program. Congress created the program in 2000 and Treasury has done a good job implementing it. The application process is fair and Treasury has appropriately focused on providing a proportionate amount of New Markets Tax Credits to rural areas. In Montana, the New Markets program has created hundreds of construction as well as permanent jobs. Recently, Congress extended the New Markets program for two years as part of the fiscal cliff deal. As Treasury considers applications for the new tax credit authority, I urge you to maintain the focus on rural areas.

Will you continue the focus on rural areas when considering programs like the New Markets Tax Credit program? Will that focus on rural areas carry over into your thinking and efforts on tax reform?

I am committed to ensuring that Treasury's and the CDFI Fund's policies and programs, including the New Markets Tax Credit Program, are applied fairly and can be utilized effectively in all communities, metropolitan and non-metropolitan alike. It is my understanding that Treasury has implemented the Congressional mandate by providing for 20 percent of New Market Tax Credits to go to rural areas, which Treasury has consistently met.

Question 3:

The IRS is facing significant budget challenges and is making decisions about taxpayer service delivery based on these pressures. For example, the IRS Taxpayer Assistance Office in Helena Montana, is only open part time. My office frequently receives calls from Montanans who traveled to the office on a day that it was closed complaining about the lack of assistance, frustrated that they are not even able to obtain tax forms. Whether it is a long wait to obtain assistance over the phone, erratic office hours or other cutbacks, we are hearing that taxpayers are finding it harder and harder to get a hold of anyone at the IRS to help them. It doesn't make sense to me to limit availability of taxpayer assistance if we are trying to encourage compliance.

What have you learned from your prior professional experiences that you believe will help you guide the IRS and a new Commissioner to improve services to taxpayers, increase enforcement and compliance, and help close the tax gap in this challenging budget environment?

I agree that taxpayer assistance is an important aspect of our tax system, which relies heavily on voluntary compliance. Although I have not yet had the opportunity to delve deeply into the distribution of taxpayer assistance by the IRS, I am aware that the IRS does not have unlimited resources for taxpayer assistance. Dealing with constrained resources is challenging, but the key for the IRS is a balanced approach between taxpayer service and tax enforcement. Technology is an important component of helping make efficient use of IRS resources. I believe continued emphasis on delivery of taxpayer services through electronic means as well as improved access to web self-help applications will aid the IRS in service and compliance efforts in this challenging budget environment. As an example, I understand that in 2010, the IRS began piloting the use of video communication technology to provide taxpayers in remote locations with virtual face-to-face interactions with IRS assistors. Due to the success of the pilot, the IRS has expanded use of this technology to additional locations.

Question 4:

Currently Steve Miller is the Acting IRS Commissioner and he is doing a great job. We don't have a Commissioner. We don't even have a name of a nominee to consider or any indication of when we might have a nominee to consider or even know what skills the

Administration thinks are important for the next IRS Commissioner to possess.

What do you think are the professional skills and experiences that we should look for in the next IRS Commissioner? Should that individual be a tax professional or a business executive? Should they have experiences similar to yours or should they complement but be different from yours? What is the role of the Secretary of the Treasury regarding management of the IRS? How do you see yourself working with either Acting Commissioner Miller or the new Commissioner, once he or she is appointed?

The IRS touches almost every part of the nation, including individuals, businesses, and the non-profit community. Given the diverse portfolio of the IRS, it is critical to have someone who is well rounded. As I recall, one of the major lessons that emerged from the IRS reorganization in 1998 was a new focus on selecting Commissioners who were familiar with management and technology as well as, ideally, having tax expertise. As you look over the record of the past three Commissioners and the agency's work, this model has been effective during a challenging period. If confirmed, I look forward to working closely with the IRS Commissioner.

Question 5:

Mr. Lew, starting in just over two weeks the across-the-board spending cuts called sequestration will begin. There will be significant cuts in a variety of programs, including Medicare, food safety, and defense programs. In your opinion, what is the best way to deal with the sequestration?

Sequestration is a blunt and indiscriminate approach to spending cuts that was never intended to be put into practice. It would have a severe impact across the government and its ability to provide the services the American people count on, as well as compromising economic growth in the recovery. I support the President's long-stated approach to avoid sequestration by replacing it with more balanced and sensible deficit reduction. The President has demonstrated a strong commitment and willingness to reach agreement on further balanced deficit reduction that avoids sequestration and that also supports economic growth in the near term.

Question 6:

The Trade Sanctions Reform and Export Enhancement Act of 2000 authorized agricultural exports to Cuba by payment of cash in advance or third-country bank letters of credit. For several years, until 2005, such cash-based sales were taking place and working well. After goods shipped from U.S. ports, the Cuban buyers initiated payments, routing them through third-country banks, as required by law. All of these cash-based sales came to a halt in 2005 when the Office of Foreign Assets Control (OFAC) issued a rule that defined "payment of cash in advance" as payment prior to shipment of goods. The change in definition has brought all cash-based sales to a halt, rendering the cash in advance provision useless and undermining Congress's intent to facilitate agricultural sales to Cuba.

Can I have your assurance that you will work to uphold Congressional intent to facilitate agricultural sales to Cuba by restoring the definition of "payment of cash in advance" to payment before the transfer of title to, and control of, the exported items to the Cuban purchaser?

In the Trade Sanctions Reform and Export Enhancement Act of 2000, Congress prohibited the use of all payment and financing terms for sales of agricultural commodities or products to Cuba other than "payment of cash in advance" or financing by a third-country bank. In clarifying the term "payment of cash in advance" through its regulations, I understand that Treasury adopted what it determined to be the industry standard definition of the term, which was that payment is received prior to shipment of the goods from the port at which they are loaded. I understand that the Congressional Research Service also found that this interpretation of "payment of cash in advance" is consistent with the industry definition. I understand that Treasury is implementing Congress's mandate with respect to payment mechanisms.

Question 7:

The Administration issued its Framework for Business Tax Reform one year ago. In that paper, international tax reform was briefly discussed, without many details but with a clear rejection of a "pure" territorial system. Can you give us your view of where we should be going on international tax reform and the reasons why it is important?

The President's Framework for Business Tax Reform supports a hybrid approach that reduces incentives for companies to shift profits and investment to low-tax countries, puts the United States on a more level playing field with our international competitors, and helps end the global race to the bottom on corporate tax rates—while also making American companies more competitive globally. There is considerable debate as to how to reform the international tax system, but I believe that there is common ground on this subject, including a mutual concern about preserving the U.S. tax base by reducing incentives that encourage the shifting of investment and income overseas, and making the United States more competitive globally. I look forward to working with the Committee on a bipartisan basis to develop approaches to international taxation that will ensure the United States will retain and attract high-quality jobs.

Question 8:

This Committee also has jurisdiction over healthcare, and recently held a hearing looking at implementation of health insurance exchanges under the health reform law. In addition to the Department of Health and Human Services, Treasury has a large role in ensuring the exchanges are up and running.

Mr. Lew, can you give us an update on Treasury's progress on implementation of the Health Insurance exchanges? Under your leadership at Treasury, can you assure us the exchanges will be up and running by October of this year when enrollment begins?

While I haven't yet had an opportunity to engage with the Department's work in helping to develop the Health Insurance Exchanges, my understanding is that the IRS and the Department

of Health and Human Services are working in close cooperation and that they are on track to begin open enrollment on time. If confirmed, I look forward to working with Congress on this issue.

Question 9:

It has been five years since we experienced the worst financial crisis since the Great Depression. In response we passed a stimulus bill, provided emergency funds to banks, and passed the Dodd-Frank Act. Now, TARP is winding down and Dodd-Frank regulations are being implemented. But the question on my mind and the mind of many Americans is "have we done enough?" What lessons did you learn from the financial crisis and, if confirmed as Treasury Secretary, what steps are you going to take to help protect Americans from a future financial crisis?

When faced with the greatest financial crisis since the Great Depression, President Obama and Secretary Geithner, following on the initial steps taken during the Bush Administration, acted quickly and decisively to arrest the collapse in the financial markets and the economy. The crisis taught us, among other things, that we needed better communication among regulators; that our financial firms had to become more resilient to shocks; that activities such as over-the-counter derivatives needed to come under regulation; and that regulators needed tools to provide for the winding down of insolvent financial firms. With quick and decisive action, and the enactment of the Dodd-Frank Act, the U.S. economy is stronger, safer, and more resilient. Regulators now have important tools to make the financial system more resilient to future financial shocks and to respond to such shocks should they occur.

If confirmed, I look forward to continuing these important efforts in my role as Chair of the Financial Stability Oversight Council to support the implementation of the reforms set out in the Dodd-Frank Act in the wake of the financial crisis.

Question 10:

It's clear that the Treasury Department has made great strides in winding down TARP, recouping most of the $418 billion disbursed. However, the Special Inspector General for TARP (SIGTARP) recently reported that there is still $40 billion of taxpayer money outstanding in the bailout program. SIGTARP was particularly concerned that Treasury has not done enough to recover the $14.7 billion still owed by Ally (formerly known as the auto lender GMAC).

What is your plan to wind down TARP and recover the remaining taxpayer money still outstanding?

If confirmed, I would support continuing to wind-down the remaining TARP investments in a manner that balances speed of exit with maximizing return for taxpayers. In the case of the bank programs and credit market programs, Treasury has already received cash distributions in excess of the original investment, and I expect them to continue to wind down going forward, while actively managing outstanding investments to maximize taxpayer returns. In the case of the

remaining investment in GM, if confirmed, I support continuing to sell down our common stock position, subject to market conditions. In the case of Ally, I understand that Treasury has described its exit plan on several occasions. Based on those descriptions, I understand that Treasury expects to continue recovering the taxpayer's investment in Ally as the company completes two strategic initiatives which were commenced in May 2012—the Chapter 11 proceeding for its mortgage subsidiary and the sale of its international operations.

Question 11:

One of the first Acts of Congress was to establish the U.S. Customs Service to collect duties and facilitate trade. Treasury oversaw the Customs Service until 2002 when it transferred the agency along with certain authorities to the newly created Department of Homeland Security. I was concerned then as I am today that Customs and Border Protection (CBP) does not prioritize its trade mission. In fact, it has diminished as the Agency shifted its focus on security. Will you work with me to ensure that CBP prioritizes its trade mission? Will you exercise the Department's oversight function by ensuring proper staffing and resources within Treasury?

Yes. If confirmed, I look forward to working together with the Finance Committee and the Department of Homeland Security, including Customs and Border Protection, on striking the right balance between its security and trade mission.

Ranking Member Hatch

Question 1:

Mr. Lew, on October 11, 2011 the Senate passed S. 1619, the Currency Exchange Rate Oversight Reform Act. I wrote then-Secretary Geithner and Ambassador Kirk before Senate debate began on S. 1619 requesting the Administrations views and concerns with S. 1619 – but neither responded before our vote.

Following the vote, I asked then-Secretary Geithner a question for the record during his February 14, 2012 Finance Committee budget hearing about Treasury's views on S. 1619. He replied "Aspects of (S. 1619)…raise concerns with our international obligations; if legislation were to advance, those concerns should be addressed. For any approach to be effective, it must be consistent with our international obligations."

Because we have not had a hearing, and because your predecessor failed to provide the detailed views of the Administration, even today – almost a year and a half after the Senate voted on the bill last Congress – we do not know the Administration's specific views and concerns regarding S. 1619. That is unacceptable.

Please provide written response that explains in detail each aspect of S. 1619, as passed by the Senate last Congress, that raises concerns for the Administration with respect to our international trade obligations and how those concerns should be addressed? Please identify specifically by provision number as identified in the bill text, which provisions concern the Administration.

Moreover, the Committee would benefit from the Administration's views on the advisability or effectiveness of other provisions in the S. 1619 that, although they may comply with our international obligations, could prove ineffectual.

I fully support the objective of taking effective actions, consistent with our international obligations, to provide a level playing field for American workers and firms, including rectifying the undervaluation of China's exchange rate.

I understand that Treasury has been working aggressively to address China's exchange rate, including through the U.S.-China Strategic and Economic Dialogue, the G-20, and the International Monetary Fund. I also understand that there has been some progress. From June 2010, when China moved the renminbi off its peg against the dollar, the renminbi has appreciated by about 15 percent against the dollar in real terms. China's current account surplus has fallen from a peak of over 10 percent of GDP to under 3 percent today and U.S. exports to China have almost doubled since early 2009.

More progress, however, is needed. If confirmed, addressing China's exchange rate would be a top priority. I would press China to move to a market-determined exchange rate, level the playing field for our workers and firms, and support a sustained shift to domestic consumption-

led growth in China. If confirmed, I would welcome the opportunity to work closely with Congress on this important issue.

Question 2:

Do you support the United States taking unilateral steps to counter the effects of currency intervention, misalignment, or manipulation by our trading partners? What are the risks of taking unilateral actions? Would you characterize S. 1619 as passed by the Senate in 2011 as a unilateral approach to addressing currency issues?

The Administration supports taking steps that are both effective and consistent with our international obligations to address currency manipulation for purposes of gaining unfair competitive advantage in international trade.

Question 3:

Do you believe that signing S. 1619 into law would create millions of jobs in the United States?

I fully support the objective of taking effective actions, consistent with our international obligations, to provide a level playing field for American workers and firms, including rectifying the undervaluation of China's exchange rate. This is important for exports, jobs, and growth.

Question 4:

Do you believe that S. 1619 is consistent with U.S. trade policy and trade commitments?

Please see my answer to Question 1.

Question 5:

Does the Administration support setting time frames that require our trading partners to take certain actions to better align their currency with market principles? What problems would triggering steps by the Administration on a fixed timeline present for the Administration?

The Administration supports pressing China in ways that are both effective and consistent with its international obligations to move more rapidly to market-determined exchange rates, as it has committed in the G-20.

Question 6:

Would the impact of S. 1619 change if the country allegedly misaligning its currency is a non-market economy? How will the provisions of S. 1619 operate differently when applied to a non-market economy as opposed to a market economy?

Please see my answer to Question 5.

Question 7:

Could you please explain how the antidumping and countervailing duty provisions in S. 1619 are consistent or inconsistent with U.S. WTO obligations?

Please see my answer to Question 5.

Question 8:

Is currency manipulation or fundamental misalignment a subsidy?

Please see my answer to Question 5.

Question 9:

Do you, and does the Administration, support raising U.S. tariffs to remedy currency misalignments in foreign countries?

Please see my answer to Question 5.

Question 10:

If Congress were to pass S. 1619, would President Obama sign it?

I cannot speculate on what the President would do with respect to any particular legislation passed by Congress.

Question 11:

Do you believe that the remedies provided for in S. 1619 will have any meaningful impact on China's decision-making or behavior with respect to its currency policies?

Please see my answer to Question 1.

Question 12:

How many jobs would passage of S. 1619 create in the United States? Would you characterize S. 1619 as a jobs bill that will have a meaningful impact on the stubbornly high U.S. unemployment rate?

Please see my answer to Question 3.

Question 13:

Do you support prohibiting China or any other country that fundamentally misaligns it currencies from participating in U.S. government procurement?

I fully support the objective of taking effective actions consistent with our international obligations to provide a level playing field for American workers and firms and to address the undervaluation of China's exchange rate. On government procurement more generally, I understand that the Administration, led by USTR, has been working hard both multilaterally and bilaterally to have China fulfill its commitment to join the WTO Government Procurement Agreement (GPA). Since China has not yet joined the GPA, it does not have the preferential access to U.S. government procurement currently enjoyed by GPA members and our free trade agreement partners.

Since June 2010, when China moved the renminbi off its peg against the dollar, the renminbi has appreciated by about 15 percent against the dollar in real terms. But more progress is needed. If confirmed, addressing China's exchange rate would be a top priority. I would press China to move to a market-determined exchange rate, level the playing field for our workers and firms, and support a sustained shift to domestic consumption-led growth in China.

Question 14:

Do you support prohibiting OPIC and multilateral bank financing to countries that fundamentally misalign their currencies?

I fully support the objective of taking strong actions that are both effective and consistent with our international obligations to provide a level playing field for American workers and firms against their foreign competitors.

Moreover, for other reasons specific to China, I understand that OPIC programs in China are already prohibited as a matter of law. I also understand that Congress has directed Treasury to vote against all multilateral development bank lending to the country, except in very limited cases to projects that meet basic human needs. If confirmed, I would continue to carry out these directives.

Question 15:

Please describe what types of remedial interventions Treasury could take – in partnership with the Federal Reserve, International Monetary Fund (IMF), and other monetary authorities – to mitigate interventions in international currency markets and respond to fundamentally misaligned currencies in other countries.

I understand that Treasury is using strong efforts in the International Monetary Fund (IMF), the G-20, and the Strategic and Economic Dialogue to address fundamental currency misalignments. There has been some progress. I understand that in response to strong U.S. efforts, the IMF has taken steps to increase its surveillance of exchange rates in recent years, including, publishing for the first time in 2012 the real effective exchange rate misalignments of 28 economies through its Pilot External Sector Report (ESR). It also is my understanding that the July 2012 ESR assessed

that 9 of the 28 currencies were undervalued, and none by more than 15 percent, and that China's currency was assessed to be 5 to 10 percent undervalued.

Question 16:

If S. 1619 passed Congress and was signed by the President, under what circumstances would you recommend to the President that the remedies required by S. 1619 would cause serious harm to the national security of the United States and should be waived? Under what circumstance would you recommend a similar waiver because it would be in the vital economic interest of the U.S. to do so and that adopting such remedies would have an adverse impact on the U.S. economy greater than the benefits of such action?

I am not in a position to speculate about what actions I might advise the President to take in specific circumstances under the provisions of legislation that has not passed Congress.

Question 17:

Do you support the provisions in S. 1619 that would allow Congress to overrule a waiver determination by the President?

Please see my answer to Question 1.

Question 18:

Do you believe that is possible to quantify a specific percentage that a currency is misaligned? Do you agree that "fundamental misalignment" means a significant and sustained undervaluation of the prevailing real effective exchange rate, adjusted for cyclical and transitory factors, from its medium-term equilibrium level?

Although I have not specifically studied this very complex issue, I understand that there is no single widely-accepted model for determining exchange rate equilibrium. I also understand that views among technical experts vary considerably with respect to exchange rate models and the outcomes that those models produce, as well as the factors that determine exchange rates at any point in time or over time.

Question 19:

Is the Treasury Department capable of analyzing on a semiannual basis the prevailing real effective exchange rates of foreign currencies?

I understand that Treasury includes analysis of real effective exchange rates in its Semiannual Report to Congress on International Economic and Exchange Rate Policies. Real effective exchange rates provide an important metric of the change in value of a country's currency over time weighted by the share in trade of each trade partner and adjusted for relative rates of inflation. I understand that there already are several indices that record or show changes in real effective exchange rates over time.

Question 20:

Can current IMF surveillance methodology determine whether or not a country's currency is fundamentally misaligned?

I have not specifically studied this technical issue; however, I understand that there is no single widely accepted model for determining exchange rate equilibrium. I understand that views among technical experts vary considerably with respect to exchange rate models and the outcomes that those models produce, as well as the factors that determine exchange rates at any point in time or over time.

Question 21:

Do you think that the Department of Commerce could calculate an accurate dumping or countervailing margin to offset the effects of a fundamentally misaligned currency? If currencies' values change from day to day, would Commerce need to also adjust any antidumping or countervailing margin?

Calculating currency misalignments is a complex technical issue and not one that I have specifically studied. I understand that there is no single widely accepted model for determining exchange rate equilibrium. I also understand that views among technical experts vary considerably with respect to exchange rate models and the outcomes that those models produce, as well as the factors that determine exchange rates at any point in time or over time.

Question 22:

Can the Congress mandate that the Executive branch launch WTO dispute consultations with another country on a fixed time frame?

The Obama Administration has a strong record of pursuing U.S. rights under the WTO using all available means, including through the initiation of WTO dispute settlement procedures, if necessary. I understand that as part of that effort, USTR consults closely with this Committee and others in Congress. If confirmed, I would work closely with USTR on its efforts to vindicate U.S. rights in the WTO. I would defer to the Department of Justice on the question of whether Congress has the authority to direct the Executive branch to initiate WTO dispute consultations with another country.

Question 23:

Do you believe that trade remedies can effectively mitigate the effects of misaligned currencies?

Please see my answer to Question 1.

Question 24:

Does the Administration support the repeal of The Exchange Rates and International Economic Policy Coordination Act of 1988?

I am not aware that the Administration has proposed the repeal of the Exchange Rates and International Economic Policy Coordination Act of 1988 and am not in a position to comment on possible legislation.

If confirmed, I would take seriously my responsibility to carry out U.S. law and to prepare the Report to Congress on International Economic and Exchange Rate Policies.

Question 25:

As the China trade deficit has increased, is it true that Asia's share of the U.S. trade deficit has actually declined? Do our current trade numbers capture the value added by U.S. and other foreign countries to goods assembled in China?

I understand that as China's share has increased from 22 to 53 percent since 2000, the share of other economies in the Asia-Pacific region has declined from 36 to 14 percent. It also is my understanding that trade data are not calculated on a value-added basis.

Question 26:

Do you support the conclusions by the Economic Policy Institute that 2.4 million jobs were lost to China as a result of China's currency manipulation and unfair trade policies?

I support efforts to create a more level playing field with China in order to support U.S. growth and jobs. If confirmed, I would press China to rebalance its economy toward domestic consumption-led growth, which will benefit Americans as Chinese households are able to buy more American goods and services. Chinese exchange rate reform is a critical part of this effort and I would press for greater exchange rate flexibility.

I also understand that the Administration has aggressively enforced our trade rights, doubling the rate of WTO cases against China compared to the prior Administration. If confirmed, I would support a continuation of this strategy.

Question 27:

Do you believe that if China appreciated its currency to a market-based level that it would result in a significant reduction of the United States' overall trade deficit? What are the primary drivers of the U.S. trade deficit? Is the currency level of China, or any other major trading partner, a primary driver of the U.S. trade deficit?

I believe that it is critical for China to move toward a market-determined exchange rate to support stronger, more sustainable, and more balanced global growth; to achieve more balanced

trade; and, to create greater opportunities for American firms and workers to benefit from the U.S.-China economic relationship.

The United States' overall trade deficit has been the result of a number of factors, including the imbalance of domestic saving and investment and differences in growth rates between the United States and its trading partners. The U.S. trade deficit shrank in late 2008 and 2009 because U.S. demand for imports collapsed as a result of the recession. One of the keys to addressing the U.S. trade deficit over the longer term is to put public saving and spending on a sustainable trajectory.

Question 28:

Is it a fact that in the three years from 2005 to 2008, China's currency appreciated about 20 percent? Is it a fact that during that time the U.S. bilateral trade deficit with China grew? Is it a fact that during the first two years of the financial crisis and economic recession, China's exchange rate was pegged to the dollar – yet the U.S. bilateral trade deficit with China decreased?

Yes, I understand that the renminbi appreciated by about 20 percent against the dollar between 2005 and 2008, and that the U.S. bilateral trade deficit with China grew during the period. I also understand that this deficit shrank slightly between the first half of 2008 and the first half of 2010.

Question 29:

On January 12, 2012, I wrote to then-Treasury Secretary Geithner and Ambassador Ron Kirk: "Many stakeholders believe that currency practices must be directly addressed in bilateral and multilateral trade negotiations, particularly negotiations such as TPP which are designed to address "21st Century" international trade agencies. Addressing currency manipulation in the TPP becomes particularly important as the Administration considers the possibility of new TPP participants, such as Japan, who have demonstrated a pattern of currency interventions. Given Japan's professed interest in joining the TPP, I respectfully request that the Administration provide its views regarding the inclusion of such a currency provision as a key negotiating objective in the TPP."

On April 16, 2012, I received the following written response from then-Treasury Secretary Geithner and Ambassador Ron Kirk: "We also appreciate your interest in views on how currency issues could figure in future and ongoing negotiations. Like you, we have taken note of considerable stakeholder interest in this issue, and we will want to be in close contact with you as we consider possible approaches to persistent rate misalignments."

Unfortunately, there was no engagement from the Administration on the issue of whether or not to include such a provision in the TPP negotiation following receipt of that letter. As I result, I reiterated my request to then-Secretary Geithner on October 18, 2012:

"Despite your acknowledgement that there is strong interest among U.S. stakeholders in including provisions to address persistent currency manipulation in on-going trade

negotiations such as TPP, and your interest in remaining in close contact on the issue, there has been no effort to engage in any substantive dialogue since your reply in April of 2012. Meanwhile, negotiations to conclude TPP continue. In fact, the 15th Round of TPP negotiations are scheduled to be held in New Zealand on December 3-12, 2012. Given the critical nature of currency manipulation and its impact on U.S. competitiveness, I again respectfully request that the administration provide its view before the next round of TPP negotiations regarding the inclusion of a currency provision as a key negotiating objective in tbe TPP."

Despite my request for the administration's views before the December 3-12, 2012 TPP Round, I did not receive a reply from the Treasury Department until December 19, 2012, seven days after the Round concluded. In that reply, Assistant Secretary for Legislative Affairs Alastair M. Fitzpayne wrote:

"Finally, we are giving careful consideration to the potential benefits and risks of seeking new negotiating objectives for future and ongoing trade negotiations, drawing on our experiences in the WTO, the IMG, and the G-20, and recognizing that the negotiating goals we have set for tbe Trans-Pacific Partnership are ambitious and appropriately so in order to achieve a high-standard 21st century trade agreement."

Please answer each of the following questions:

a. **What are your views regarding the inclusion of provisions to address persistent currency manipulation in on-going trade negotiations, such as TPP?**

   It is my understanding that Treasury is addressing international currency issues in various international fora, including in the G-20, the IMF, and the WTO. In these venues, I understand that Treasury has underscored the importance of market-determined exchange rates in promoting more balanced global trade, avoiding persistent exchange rate misalignments, and advocating for faster and more efficient global adjustment of external imbalances. I also understand that Treasury has pushed for strong surveillance by the IMF of its member obligations to avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members.

   If confirmed, I would give careful consideration to the potential benefits and risks of seeking new negotiating objectives for ongoing and future trade negotiations, drawing on Treasury's experiences in the WTO, IMF, and G-20, and recognizing that the negotiating goals that we have set for the Trans-Pacific Partnership are ambitious and appropriately so in order to achieve a high-standard 21st century trade agreement. If confirmed, addressing currency issues would be a top priority.

b. **According to Treasury's December 19, 2012 reply, the Department is deliberating about whether to see new negotiating objectives. Yet no one has contacted my office about these deliberations, despite a professed interest by Treasury to be in close contact with me as you consider possible approaches to persistent rate**

misalignments. This is unacceptable. Should you be confirmed, will you pledge to immediately and substantially improve Treasury's Congressional consultation procedures?

I take Congressional consultations very seriously. If confirmed, I would welcome the opportunity to discuss this further with you and others on the Committee.

Question 30:

In a recent Op-Ed, Bob Zoellick wrote "Central banks have tried most every tool to stimulate growth; if Japan is any warning, the next tactic is competitive devaluation, which risks a new protectionism. 'Currency manipulation' could become a danger that reaches far beyond the debate about Chinese policies. The world economy will need at some point to withdraw the drug of cheap money and negative real interest rates. The U.S. should anticipate these dangers." Please answer each of the following questions separately:

a. **Do you agree that competitive currency devaluations risk a new form of protectionism?**

I agree that competitive currency devaluations risk protectionism. That is why I believe the commitments made by the G-7 and G-20 members this week are significant. Specifically, I understand that G-7 members committed that fiscal and monetary policies would be oriented toward domestic objectives using domestic instruments and not target exchange rates.

b. **Do you agree that the world will need to withdraw from policies of cheap money and negative real interest rates?**

This question is more appropriate for the Federal Reserve in light of their responsibility for monetary policy.

c. **What criteria will be used to determine when it is time to stop the flow of cheap money?**

Please see my answer to Question 30(b).

d. **What will you do to prepare the United States to phase out and end its addiction to cheap money?**

Please see my answer to Question 30(b).

e. **Do you support a strong dollar policy?**

Treasury has had a longstanding position, through Administrations of both parties and over many years that a strong dollar is in the best interests of promoting U.S. growth, productivity, and competitiveness. If confirmed, I would not change that policy.

f. Do you agree that the IMF and the World Trade Organization should anticipate this risk and give effect to the existing WTO agreement that economies must "avoid manipulating exchange rates . . . to gain an unfair competitive advantage."

It is my understanding that IMF members must avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members, and that the WTO similarly requires that WTO members cannot, by exchange action, frustrate the intent of the provisions of the WTO Agreements.

I understand that the IMF has taken steps to increase its surveillance of exchange rates in recent years, including publishing for the first time in 2012 the real effective exchange rate misalignments of 28 economies through its Pilot External Sector Report.

I also understand that the WTO has initiated discussions on the relationship between exchange rates and trade in which Treasury has underscored the importance of market-determined exchange rates in supporting growth and trade.

If confirmed, I would continue Treasury's efforts in the IMF and the WTO, as well as in the G-20, to ensure members comply with these commitments.

Question 31:

Mr. Lew, do you believe that countries intentionally undervalue their currencies to gain a trade advantage against their competitors? Do you support raising U.S. tariffs to remedy currency manipulation in foreign countries? Please describe in detail the negative effects to the global economy if countries resorted to tit-for-tat tariff retaliation in order to affect each other's currency policies.

I am not yet in a position to evaluate why certain currencies may be undervalued. I understand that Treasury has noted, however, that China's currency remains significantly undervalued and that Treasury is pressing China for policy changes that increase exchange rate flexibility and level the playing field for U.S. workers and firms.

It is my understanding that our trade partners have taken on important commitments in the IMF as well as in the G-20. I believe it is critically important that they adhere to these commitments, especially in light of the fragility of the global recovery. I also understand that IMF Article IV legally requires that each IMF member shall avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members.

In addition, I believe that just this week, G-20 members committed to refrain from competitive devaluation, not to target exchange rates for competitiveness purposes, and resist all forms of protectionism. I also understand that G-20 members further committed to move more rapidly

toward market-determined exchange rate systems and avoid persistent exchange rate misalignments.

I believe that it is important for countries to adhere to these commitments to avoid beggar thy neighbor policies and possible retaliation which could further undercut a fragile global recovery and reduce market confidence, resulting in greater unemployment and weaker growth.

Question 32:

Mr. Lew, can current IMF surveillance methodology determine whether or not a country's currency is fundamentally misaligned? Can IMF, or any other methodology, consistently calculate the percentage difference between a fundamentally misaligned currency and a properly aligned currency? Please provide a detailed response to each question.

It is my understanding that the IMF has published the real effective exchange rate misalignments of 28 economies through its Pilot External Sector Report. I also understand that there are other methods to calculate estimates of misalignments

Question 33:

Why does Treasury Co-Chair the Strategic and Economic Dialogue? Most of the issues addressed and results achieved by the S&ED and its predecessor, the Strategic Economic Dialogue, were negotiated by non-Treasury agencies – so should the S&ED be led by the U.S. Trade Representative or another cabinet officer?

I believe that the S&ED has served as the overarching framework for our economic engagement and proved to be a successful mechanism for addressing cross-cutting strategic economic priorities and concerns with an often times stove-piped Chinese government at the highest levels. As a result, I understand that this Administration (as well as the previous Administration) has secured concrete results across the entire spectrum of our economic agenda with China.

For example, China has committed to accelerate its shift toward domestic consumption-led growth, including through enhanced exchange rate flexibility and transparency and tax reform. China has taken a number of steps to reform and open its financial sector, which are critical to leveling the playing field and making the transition to sustainable growth, including interest rate liberalization, and improved access for U.S. financial services firms such as in the areas of securities, banking, insurance, and auto finance. China has committed to negotiate new rules on official export financing with the United States and other major providers.

But much remains to be done. If confirmed, I would continue to press China to undertake cross-cutting economic reforms that will rebalance China's economy toward domestic-driven, consumption-led growth and that will help level the playing field for U.S. workers and firms. I would do so using all appropriate opportunities, including bilaterally through the S&ED as well as the Commerce Department and USTR co-led Joint Commission on Commerce and Trade, and multilaterally.

Question 34:

Please rank in order of priority the top five economic issues that prevent a more open, balanced, and transparent economic, trade, and investment relationship between the United States and China.

I believe that the five issues, not in rank order, that are important to achieving a more open, balanced, and transparent economic, trade, and investment relationship between the United States and China are for China: (1) continuing to move to a market-determined exchange rate; (2) accelerating its shift toward domestic consumption-led growth, including through exchange rate flexibility and transparency, tax reform, and financial sector reform; (3) strengthening further enforcement and protection of intellectual property rights, including against trade secret theft; (4) abiding by international guidelines, including on official export financing; and (5) providing non-discriminatory treatment for enterprises of all kinds of ownership. In each of these areas, I understand that we have made progress and that China has made commitments in the S&ED.

Notwithstanding the real progress that has been made in these areas, I believe that there is more to do. If confirmed, I would press China to implement fully its commitments and to level the playing field for American firms and workers. I also would press China to continue to undertake cross-cutting economic reforms, including financial reform and exchange rate reform, which will rebalance China's economy toward domestic driven, consumption-led growth that will not discriminate against U.S. companies and goods and that will reduce barriers to U.S. exports, creating more jobs for U.S. workers.

Question 35:

Please explain when it is appropriate for the CFIUS process to block a foreign investment into the United States?

I understand that CFIUS seeks to resolve any national security concerns that may arise from transactions it reviews, including by negotiating mitigation agreements, wherever reasonably possible, so as to allow the transactions to proceed. I further understand that it would be appropriate for CFIUS to recommend to the President that he suspend or prohibit the transaction in instances where CFIUS determines that no mitigation is available to resolve national security concerns arising from the transaction.

Question 36:

As you know, U.S. companies that invest abroad must take into account numerous business and political risks. However, established international treaty obligations between sovereign nations such as the bilateral investment treaties (BITs) and the International Center for Settlement of Investment Disputes (ICSID) Convention may mitigate these risks and encourage U.S. investment abroad. The failure to comply with these international treaty obligations by certain signatories to these treaties such as Argentina, however, puts U.S. investors and business at risk.

A Texas-based water services company named Azurix invested significant capital in Argentina in preparation for a 30-year water concession in the country, but the Government of Argentina had effectively expropriated Azurix's investment after just a few years.

Azurix sought and was awarded a judgment pursuant to the U.S.-Argentina BIT in 2009 under the ICSID Convention that is now worth $242 million. Argentina, however, has repeatedly refused to pay the award, insisting instead – counter to the very purpose of the BIT – that Azurix must refile its claim in Argentina's domestic courts.

To allow countries like Argentina to ignore international treaty obligations is dangerous and weakens the position of U.S. businesses both at home and abroad. The United States has already withdrawn Argentina's Generalized System of Preferences (GSP) benefits, voted against multilateral development bank loans to Argentina, and voted for the International Monetary Fund (IMF) censure of Argentina. What else can the U.S. government do to ensure that U.S. investors are protected from nations that intentionally ignore their BIT and ICSID obligations? Given that many apparent mechanisms for encouraging Argentina to comply with treaty obligations are ineffective without the support of the international community, will the U.S. Department of Treasury actively urge other countries to vote against multilateral development bank loans to Argentina until Argentina complies with its treaty obligations and pays its arbitral award obligations to successful ICSID claimants?

I share the serious concerns about Argentina's unwillingness to honor its international obligations.

If confirmed, I would have Treasury continue to work actively to press Argentina at every appropriate opportunity to honor its obligations.

I understand that Treasury is pressing Argentina to abide by its international obligations and to normalize its relationship with the international financial community and foreign investors, including by honoring its international obligations to provide accurate data to the IMF, paying amounts that are past due to the United States and other Paris Club members, and honoring final arbitral awards in favor of U.S. companies.

Because of these concerns about Argentina, I understand that Treasury has opposed practically all lending to Argentina through the multilateral development banks and supported the IMF's decision to censure Argentina for its misreporting of data, and President Obama suspended Argentina's eligibility for trade preferences under the Generalized System of Preferences program. It is also my understanding that almost all other donors at the Inter-American Development Bank have joined the United States in opposing proposed loans to Argentina. I understand that such a level of disapproval by other donors against the proposed loans to any single country is unprecedented in recent memory, and follows from the leadership position Treasury established in 2011.

Question 37:

Please review the following Pre-Due Diligence Question you received on February 6, 2013:"As Director of OMB during this time period, are you whether the recommendations were submitted to the President as required by the Presidential Memorandum of March, 2011? Were these recommendations submitted to the President in June, 2011? Regardless of whether the recommendations were actually submitted, are you aware of their contents? Have these recommendations been made public?"

You responded in writing to this question that: "The Chief Performance Officer briefed me—in my role at the time as Director of the Office of Management and Budget ("OMB")—on the recommendations of the Initiative. As directed in the Memorandum, the Chief Performance Officer submitted a recommendation to the President to restructure and streamline government programs focused on trade and competitiveness."

Please elaborate on your answer, specifically answer each of the following questions separately:

a. **On what date were the recommendations submitted to the President?**

b. **Please provide a copy of the recommendations submitted to the President.**

c. **Please indicate whether a copy of these recommendations has been shared with any member of the public.**

You further responded: "In response, the President requested in January 2012 that Congress revive the authority of previous Presidents to submit proposals to reorganize Executive Branch departments. The proposed legislation would require that any reorganization plan submitted to Congress would reduce the size of government or would save money. The President stated publicly that his first proposal would focus on promoting economic growth and spurring job creation. The Initiative's recommendation was to consolidate six agencies primarily responsible for business competitiveness and exports into one new Department with the dedicated mission to help American businesses grow, hire, and thrive in the global economy. After examining the international trade functions of the Departments of the Treasury and Agriculture, the Initiative concluded that these programs were integral to the Departments and thus were not included in the proposal. For example, foreign currency issues are a fundamental responsibility of Treasury.

Congress did not act upon the President's proposal to reinstate consolidation and Reorganization authority. If Congress passes legislation to provide such authority, I believe the President would consult with Members of Congress, stakeholders, and federal employees to develop specific legislative proposals to reorganize Executive Branch departments and agencies."

From your response, it appears that the President does not have a specific legislative proposal to reorganize Executive Branch departments and agencies and that passage of

authority to consolidate and reorganize the executive branch is a condition precedent for developing specific legislative proposals. Please answer each of the following questions separately:

a. **Does the President have a specific legislative proposal to reorganize Executive Branch departments and agencies? If so, please provide a copy of that proposal.**

b. **If not, is passage of authority to consolidate and reorganize the executive branch a condition precedent for the President to develop a specific legislative proposal?**

c. **Do you believe it is reasonable to request broad authority to reorganize Executive Branch agencies when the Executive Branch has failed to develop or provide any specific legislative proposal?**

From your response, it appears that the President will not consult with Congress, stakeholders, and federal employees on specific legislative proposals until Congress passes authority to consolidate and reorganize the executive branch. Yet, you further responded that: "The Administration has taken a number of additional steps. By Presidential Memorandum, it created BusinessUSA, a streamlined one-stop shop for access to information useful to businesses seeking to export and grow. It established a cross-agency priority goal for increasing exports, laying out specific milestones, and reporting progress quarterly. By Presidential Memorandum, the President strengthened the role of the Export Cabinet to maximize the effectiveness of federal programs supporting trade and investment. And, by Executive Order, he established the Interagency Trade Enforcement Center to improve the nation's trade enforcement capabilities." Please answer each of the following questions separately:

a. **Did the President consult with Congress before issuing these Presidential Memorandums or Executive Orders? If so, please provide the specific dates of those consultations and who was consulted.**

b. **Did the President consult with stakeholders before issuing these Presidential Memorandums or Executive Orders? If so, please provide the specific dates of those consultations and who was consulted.**

c. **How many Executive Orders has the President issued related to international trade and competitiveness since January 1, 2009?**

d. **How many Presidential Memorandums has the President issued related to international trade and competitiveness since January 1, 2009?**

e. **How many interagency task forces has the President created related to international trade and competitiveness since January 1, 2009?**

f. **Please describe how creation of the Interagency Trade Enforcement Center and reprograming of funds impacted the overall budget of the Office of the U.S. Trade**

Representative? Please be specific and provide a breakdown of the budget impact by function and office.

In press reports from January 13, 2012, Jeffery Zients was reported as saying that the International trade agency reorganization would be the first of a "series" of proposals to reorganize government. Please answer each of the following questions separately:

a. Does the President have any other proposals to reorganize executive branch agencies?

b. If the President does have additional proposals to reorganize executive branch agencies, which agencies are part of those proposals?

c. If the President does have additional proposals to reorganize executive branch agencies, are those proposals public?

d. If not, does the President intend to develop any other proposals to reorganize executive branch agencies?

e. If so, which executive branch agencies?

f. If so, when will these proposals be made public?

As directed in the Presidential Memorandum, the Chief Performance Officer submitted recommendations to the President. The President's announcement in January 2012 reflected the Chief Performance Officer's recommendations, and that proposal is public.

As I noted in my previous submission to the Committee, the President requested in January 2012 that Congress revive the authority of previous Presidents to submit proposals to reorganize Executive Branch departments. The reorganization authority requested by the President sets forth a process for expedited review of proposals while ensuring that Congress has a critical evaluative role and that proposals can only go forward through affirmative action by Congress. Should Congress pass legislation to provide such authority, the President has outlined a framework for integrating the six primary business and trade departments and agencies (as well other related programs) into one new Department responsible for the government's core trade and competitiveness functions. Congress did not act on the President's proposal to reinstate consolidation and reorganization authority, and the Administration has not put forward any additional proposals to reorganize federal agencies.

In regard to the Interagency Trade Enforcement Center (ITEC), the President issued an Executive Order on February 28, 2012, which established the ITEC. The Administration is committed to leveling the playing field for American workers and businesses and making sure they are able to compete successfully in global markets. The goal of the ITEC is to build upon existing capacity through a unit that coordinates trade enforcement to give U.S. companies, workers, and producers every chance to compete on a level playing field in today's global marketplace. I understand that in FY 2012, USTR reallocated existing monitoring and

enforcement funds and reprogrammed $450,000 to conduct monitoring and enforcement functions in conjunction with the ITEC.

Question 38:

During our preliminary meetings and requests for information regarding your nomination to be Treasury Secretary, I asked why the international trade functions of the Department of Treasury and the Department of Agriculture were exempted from the Administration's reorganization proposal that you oversaw as Director of OMB? In response to my question you wrote, "After examining the international trade functions of the Departments of the Treasury and Agriculture, the Initiative concluded that these programs were integral to the Departments and thus were not included in the proposal."

For each of the following international offices and trade functions of the Department of Treasury and the Department of Agriculture please provided a detailed explanation of how each office and function is integral to its respective Department. Please also provide a detailed explanation of why exempting each office and function will not undermine any benefits from a combined trade agency.

Treasury

a. **Office of Trade and Investment Policy – The Purpose of the Office as described on the Treasury Department's website includes: "...the Office of Trade Finance and Investment Negotiations and the Office of International Trade. The offices work with other U.S. government agencies to determine U.S. policy on international trade and investment issues, including in various bilateral and multilateral negotiations. Areas of work include participation in committees of the Organization for Economic Cooperation and Development (OECD) to advance open investment policies abroad and to support multilateral rules to reduce export financing subsidies; the negotiation of trade and investment agreements, including free trade agreements and bilateral investment treaties (BITs), with the deputate taking either a lead or supporting role in various facets of these negotiations; reviewing and addressing contemporary trade and financial services issues, as well as participation in the World Trade Organization, including the Doha Development Round of global trade negotiations."**

b. **Office of International Monetary and Financial Policy – The Purpose of the Office as described on the Treasury Department's website includes: "...Treasury's work to promote sound international regulatory policy practices, support financial stability, and develop international economic policy engagement and coordination in the International Monetary Fund, the Group of 7/8 and the Group of 20 Ministerial and other efforts. The group also leads the coordination of U.S. participation in the Financial Stability Board, and other various bilateral financial and regulatory dialogues. The group advises on currency legislation issues, prepares Treasury's Semi-annual Report on International Economic and Exchange Rate Policies, and analyzes and reports on world economic developments. Other responsibilities**

include administering the Exchange Stabilization Fund and Treasury International Capital data, and liaising with the Federal Reserve."

c. Office of Development Policy and Debt – The Purpose of the Office as described on the Treasury Department's website includes: "...The Office of Development Policy and Debt leads the U.S. government's efforts to promote economic growth and poverty reduction in developing countries through engagement with the multilateral development banks, including the World Bank and the regional development banks. The office works with the U.S. Congress and other government agencies to secure U.S. funding commitments to the multilateral development banks. The office also advises on potential reforms and innovative financing proposals for development, and formulates the U.S. position on issues coming before the Paris Club, an informal group of creditors who seek coordinated and sustainable solutions to payment difficulties for debtor countries.

d. Office of East Asia – The Purpose of the Office as described on the Treasury Department's website includes: "...The office's primary objectives include promoting strong, balanced, and sustainable growth in the region; advancing policy measures that support open trade and investment; encouraging the development of strong financial systems; and ensuring that all countries in the region fully participate in systems for global economic cooperation. It also plays a significant role in managing the U.S.-China Strategic and Economic Dialogue and U.S. engagement with Asian regional initiatives."

e. Office of Investment Security – The Purpose of the Office as described on the Treasury Department's website includes: "The deputate is responsible for the day-to-day implementation of Treasury's responsibilities as Chair of the Committee on Foreign Investment in the United States ("CFIUS"). A 16-member interagency committee representing the broad spectrum of security and economic agencies, CFIUS reviews certain foreign investments in the United States to identify and address the effects of the transactions on national security, according to a process specified in statute and regulation. The process focuses solely on national security concerns within the U.S.'s overall open investment policy, and it underwent substantial reforms through legislation enacted in 2007 and regulations promulgated in 2008. The deputate also leads Treasury's open investment initiatives and dialogues with other countries, including China and the European Union, to promote open investment policies and discourage foreign barriers to U.S. investment."

f. Office of South and Southeast Asia – The Purpose of the Office as described on the Treasury Department's website includes: "promoting U.S. policies and fostering growth, financial stability and poverty reduction in the region. Additionally, the office ensures U.S. interests are reflected in the regional activities of international financial institutions such as the International Monetary Fund, the World Bank and the Asian Development Bank. The office also takes the lead on all issues related to India, including representing the United States in the new U.S.-India Economic and

Financial Partnership, and has responsibility for Treasury's engagement with the Asia Pacific Economic Cooperation (APEC) forum and Association of South East Asian Nations (ASEAN)."

Agriculture

g. Foreign Agriculture Service – The purpose and some of the divisions involved in this office as described on the Department's website include: "The Foreign Agricultural Service (FAS) links U.S. agriculture to the world to enhance export opportunities and global food security. In addition to its Washington, D.C. staff, FAS has a global network of 98 offices covering 162 countries. These offices are staffed by agricultural attachés and locally hired staff who are the eyes, ears, and voice for U.S. agriculture around the world. FAS staff identify problems, provide practical solutions, and work to advance opportunities for U.S. agriculture and support U.S. foreign policy around the globe.

Please provide a detailed explanation of how each function of the Foreign Agriculture Services identified below, as taken from the Department's website, is integral to the Department. Please also provide a detailed explanation of why exempting each function will not undermine any benefits from a combined trade agency.

i) Trade Policy: FAS expands and maintains access to foreign markets for U.S. agricultural products by removing trade barriers and enforcing U.S. rights under existing trade agreements. FAS works with foreign governments, international organizations, and the Office of the U.S. Trade Representative to establish international standards and rules to improve accountability and predictability for agricultural trade.

ii) Market Development and Export Assistance: FAS partners with 75 cooperator groups representing a cross-section of the U.S. food and agricultural industry and manages a toolkit of market development programs to help U.S. exporters develop and maintain markets for hundreds of products. FAS also supports U.S. agricultural exporters through export credit guarantee programs and other types of assistance.

iii) Data and Analysis – FAS's network of global contacts and long-standing relationships with international groups contribute to the agency's unique market intelligence capacity. FAS analysts provide objective intelligence on foreign market opportunities, prepare production forecasts, assess export marketing opportunities, and track changes in policies affecting U.S. agricultural exports and imports.

iv) International Development – FAS leads USDA's efforts to help developing countries improve their agricultural systems and build their trade capacity. FAS also partners with the U.S. Agency for International Development to administer

U.S. food aid programs, helping people in need around the world. FAS's non-emergency food aid programs help meet recipients' nutritional needs and also support agricultural development and education.

h. Office of Agreements and Scientific Affairs (OASA) – **from website: "OASA works to preserve and expand access to foreign markets for U.S. food and agricultural products by promoting an open, rules-based global trading system. OASA leads USDA in negotiation, monitoring, and enforcement of trade agreements. OASA advises senior officials on strategies to prevent and address barriers to U.S. agricultural exports. Areas of focus include sanitary and phytosanitary measures (SPS), technical barriers to trade (TBT), and biotechnology and other emerging technologies. OASA coordinates USDA's participation in the World Trade Organization and other international organizations."**

i. Office of Country and Regional Affairs (OCRA) – **from website: "OCRA provides strategic leadership and focused analysis on key countries and regions of the world to advance consistent and mutually-reinforcing strategies for U.S. agricultural, trade policy, foreign policy and national security interests."**

j. Office of Global Analysis (OGA) – **from website: "OGA focuses on cross-cutting analysis to support USDA's trade agenda and develops and maintains USDA's agricultural production, supply and demand data."**

k. Office of Trade Programs (OTP) – **from website: "OTP administers programs that support marketing efforts, especially those carried out by the U.S. private sector, including the Market Access Program, the Foreign Market Development program, Technical Assistance for Specialty Crops, and the Quality Samples Program. OTP also administers the export credit guarantee and Dairy Export Incentive programs. Import programs include those for sugar, dairy and trade assistance."**

l. Office of Foreign Service Operations (OFSO) – **from website: "OSFO supports FAS foreign service officers and staff stationed in posts around the world. This includes logistic and administrative support as well as foreign travel coordination and management of the Foreign Service personnel system."**

m. **Foreign Agriculture Service Foreign Offices – from website: "FAS staffs 100 offices in 80 countries around the world. FAS Foreign Service Officers (FSO) and Locally-Employed Staff (LES) — while not maintaining a physical presence — also monitor and report on the agricultural trade matters of an additional 89 countries."**

As I noted in my previous submission to the Committee, the President requested in January 2012 that Congress revive the authority of previous Presidents to submit proposals to reorganize Executive Branch departments. He stated publicly that his first proposed use of that authority was consolidating six agencies primarily responsible for business competitiveness and exports into one new Department with the dedicated mission to help American businesses grow, hire, and thrive in the global economy.

The President's proposal was consistent with the recommendation of the Government Reform for Competitiveness and Innovation Initiative, which the President established in March 2011. The Initiative concluded that the international trade functions of the Departments of the Treasury and Agriculture were integral to the Departments and thus were not included in its recommendation. I am not in a position to address each of the individual offices and trade functions within the Departments of the Treasury and Agriculture referenced in your question. Nonetheless, I understand that the reorganization authority requested by the President would require Congress to vote on each specific proposal put forth by the Administration. Accordingly, if the President is granted such authority, I expect the Administration would consult closely with Members of Congress about specific proposals to reorganize Executive Branch departments and agencies, including the one referenced above.

Question 39:

In response to a question I asked regarding the Administration's proposed reorganization of the trade agencies you noted that the President requested legislation from Congress to grant him the authority to reorganize Executive Branch departments. In your response you wrote "The proposed legislation would require that any reorganization plan submitted to Congress would reduce the size of government or would save money." Please answer each of the following questions separately:

a. **Do you agree that under the terms of the legislation the President requested granting reorganization authority that the President could offer a proposal that reduced the number of agencies that work on trade could but could still cost more to the taxpayers than the aggregate cost of the respective agencies and offices that the proposal combined?**

b. **Do you agree that any effort to reorganize and consolidate government agencies should reduce costs to the U.S. taxpayers? Do you agree that any such plan that increases government spending rather than reducing spending would fail the taxpayers?**

On January 13, 2012, the President asked Congress to revive the same reorganization authority that it has granted to previous Presidents. The same day, the government's Chief Performance Officer spoke publicly about the requested legislation and stated: "I think we would all agree we're at a point where we need to make sure that every taxpayer dollar is well spent. That's a bipartisan belief, and I think we can all believe that making government operations leaner, smarter, more efficient is essential. And consolidation authority is a very important tool for ensuring that we achieve a smarter, leaner government." I agree with those sentiments.

In addition, I understand that the reorganization authority requested by the President would require Congress to vote on each specific proposal put forth by the Administration. In other words, Congress would retain the authority to make its own judgment about whether a particular proposal serves the best interests of the taxpayers.

Question 40:

As part of the fiscal year 2013 Budget and as part of deficit reduction talks, the Obama Administration has proposed applying "a single blended matching rate to Medicaid and CHIP" saving anywhere between $18 and 100 billion over 10 years. In December, the Administration reversed its position on the blended rate, and the only rationale offered was the Supreme Court decision that made the Medicaid expansion voluntary for the states. While states now have the option, rather than the mandatory requirement, to expand Medicaid, many worry that the Administration's policy shift does not eliminate the long term financial risks to the States should they accept the Medicaid expansions. States should be aware that when fiscal realities later dictate cuts to the Medicaid program, they may be left to finance a larger share of the Medicaid expansions. I assume that you were involved in the development of the blended rate policy either at OMB or at the White House. To better understand the potential future risks to the States, please provide the Committee with the detailed specifications of the Administration's fiscal year 2013 blended rate proposal and how it saved $18 billion, or as the Administration proposed during the deficit reduction talks, $100 billion.

The blended match rate proposal would simplify the multiple matching rates in Medicaid and the Children's Health Insurance Program (CHIP) and reduce administrative costs to States and the Federal government. However, as the Department of Health and Human Services indicated in December guidance, the Supreme Court decision has made the higher matching rates available in the Affordable Care Act for the new groups covered even more important to incentivize states to expand Medicaid coverage. We continue to seek efficiencies and identify opportunities to reduce waste, fraud, and abuse in Medicaid, and want to work with Congress, states, and stakeholders to achieve these goals while expanding access to affordable health care.

Question 41:

As you know, Medicaid consumes the largest health-related share of federal revenues and federal spending as a share of the economy is set to grow by 37 percent over the next 10 years. Clearly, Medicaid – like our other entitlement programs – must he reformed if we are to make a meaningful impact on our debt and deficit problems. You were Deputy Director of the Office of Management and Budget when President Clinton proposed Medicaid per capita caps, and I presume you were involved in the development of that policy. To quote the former Secretary of Health and Human Service when she testified in this Committee back in March of 1997, per capita caps mean "there are absolutely no incentives for States to deny coverage to a needy individual, or to a family...It is a sensible way to make sure that people who need Medicaid are able to receive it." Given the need to address health care entitlement spending and the bipartisan history behind Medicaid per capita caps, would you work with us on developing the details of this proposal to ensure we enact reforms that both protect taxpayers and patients?

I support efforts to find ways to improve care coordination, reduce fraud, and make Medicaid operate more efficiently. However, we must be careful to ensure that savings arise from program

improvements and not from shifting costs to states or beneficiaries or from exposing them to more risk.

Question 42:

Two weeks ago, your colleague at the White House, Gene Sperling, said, "We are not willing to accept even the Medicaid savings that we had once put on the table... Medicaid savings, Medicaid cuts, for this administration, are not on the table..." But then just last Friday, Acting CMS Administrator Marilyn Tavenner responded to a letter stating "...we continue to welcome collaboration with Congress, states, and stakeholders regarding other areas of potential savings in the Medicaid program." Given these conflicting positions from officials in the Administration, I am interested to learn your thoughts on whether we should address the $4.4 trillion projected to be spent on Medicaid over the next decade. This spending is a substantial contributor to the federal debt. Would you plan to address it, if confirmed as Treasury Secretary?

The Administration believes that it is important to find efficiencies in health spending so these programs provide their enrollees with higher quality care at a lower cost.

Question 43:

Throughout deficit reduction negotiations with Speaker Boehner, the President supported, and then apparently walked away from supporting an increase in the eligibility age for Medicare to 67 years of age. Can you please definitively state what the Administration's position is on this policy?

The Administration does not support raising the Medicare eligibility age.

Question 44:

In the President's 2011 Plan for Economic Growth and Deficit Reduction, the Administration proposed to reduce payments to rural hospitals by $6 billion. Does the Administration continue to support these policies? If not, where else would you seek reductions in Medicare spending?

The Administration included targeted reductions in payments to critical access hospitals in the FY 2013 Budget. This Budget proposed a range of additional measures to increase the efficiency of Medicare and ensure its sustainability for future seniors.

Question 45:

In the President's 2011 Plan for Economic Growth and Deficit Reduction, the Administration proposed a 15% surcharge on Part B premiums for new beneficiaries that purchase first-dollar Medigap coverage. Does the Administration still support this proposal? If not, what variables exist that would cause you to reverse your position?

The President's annual Budget reflects the President's policy priorities, and this proposal appeared in the Administration's FY 2013 Budget. The Administration's FY 2014 Budget has not yet been released; if I am confirmed, I look forward to addressing this and related questions once that Budget has been released.

Question 46:

In the President's 2011 Plan for Economic Growth and Deficit Reduction, the Administration proposed increasing the income-related premiums under Medicare Parts B and D. Does the Administration still support this proposal? If not, what variables exist that would cause you to reverse your position?

Please see my answer to Question 45.

Question 47:

In the President's 2011 Plan for Economic Growth and Deficit Reduction, the Administration proposed an increased Medicare Part B deductible for Medicare beneficiaries. Does the Administration still support this proposal? If not, what variables exist that would cause you to reverse your position?

The President's annual Budget reflects the President's policy priorities, and the Part B deductible increase, which only applies to new beneficiaries, appeared in the Administration's FY 2013 Budget. The Administration's FY 2014 Budget has not yet been released; if confirmed, I look forward to addressing this and related questions once that budget has been released.

Question 48:

The Medicare Trustees have determined that the Hospital Insurance (HI) Trust Fund will be insolvent in 2024. Since President Obama took office in 2009, the Medicare "45% trigger" has been tripped each year and yet the Administration has not submitted a proposal (as required by law) to Congress to reduce spending. Why is that and when will the Administration begin to follow the letter of the law?

The Medicare Modernization Act requires that the President submit legislation to Congress in the event a Medicare Funding Warning is triggered. My understanding is that the Bush Administration issued a signing statement concluding that this is inconsistent with the Recommendations Clause of the Constitution, and the Obama Administration came to the same conclusion. After I became Director of OMB in late 2010, I did not revisit this position, and OMB reiterated it in a 2013 letter.

I understand that the most recent Medicare Trustees Report shows that, while general revenues were projected to exceed the threshold that triggers the warning in 2012, general revenues are projected to fall below that threshold in every year from 2013 to after 2020. In other words, my understanding is that a warning is not projected in 2013 under current law, even absent legislative changes in Medicare.

The President takes Medicare's financing problems seriously and proposed about $300 billion in Medicare savings in the last Budget. The Administration is committed to making Medicare more efficient and ensuring its long-run solvency.

Question 49:

As Treasury Secretary you will be responsible for reviewing and approving all regulations issued by the Department. One of the areas where there have been significant questions in this Administration has been about the economic impact analysis done on regulations which are deemed to be "economically significant" meaning that their impact will be greater than $100 million. Several of the recent economically significant regulations issued by Treasury have not contained supportable or verifiable economic impact statements. If confirmed, can you explain to me how you will validate the economic analysis contained in the regulations you approve out of the Treasury Department and will you promise me to provide this Committee with all of the information we request when attempting to ascertain the validity of the economic analyses contained in proposed and final regulations?

I understand that, in the past year, OMB has designated two Treasury regulations as economically significant: Treasury's Interim Rule on Guarantees for Bonds Issued for Community or Economic Development Purposes and Treasury's Final Rule on Assessment of Fees for Large Bank Holding Companies and Nonbank Financial Companies Supervised by the Federal Reserve to Cover the Expenses of the Financial Research Fund. Each rule included a regulatory impact analysis that contained a detailed discussion of the economic impact of the rule, including quantitative and qualitative costs and benefits, where applicable. If confirmed, I would work to provide information requested by the Committee in a timely manner.

Question 50:

The Treasury Department, in coordination with the Department of Health and Human Services (HHS), has an important role in implementing the Patient Protection and Affordable Care Act (PPACA). In fact some of the most critical aspects of the law will be implemented through the Internal Revenue Service (IRS), such as advance premium tax credits (APTC), employer mandate, individual mandate, medical device tax, and health insurance tax.

The Administration has made claims that eligibility determinations will be made in real time through the federal data services hub by facilitating the exchange of data between IRS, Homeland Security, the Social Security Administration (SSA), and possibly other agencies.

If confirmed, can you please commit to having the Department and/or IRS respond to the following questions?

a. **Is the Department a part of the inter-departmental working group, tasked with coordinating PPACA implementation?**

b. Has the IRS completed service level agreements with HHS to ensure the exchange and data hub will be able to provide a real time eligibility determination?

c. What assurances can you provide regarding the security requirements placed on agencies and states accessing personal IRS data to make eligibility determinations? Please provide a specific description of how those security protocols meet the requirements of Section 6103 of the Internal Revenue Code?

Yes. If confirmed, I would be happy to work with this Committee in responding to these questions.

Question 51:

A recent report by the Congressional Budget Office (CBO) states that in 2021 the APTC will be the largest refundable tax credit and of the $213 billion that will be spent through tax credits, $110 billion will be attributed to the APTC. The sheer size of the APTC raises questions about the possibility of fraud or abuse.

a. If confirmed, how will you ensure that the Treasury Department will put in place protocols at the IRS, the federal data services hub and the exchange to ensure individuals are appropriately accessing APTC?

While I have not been directly involved in developing the procedures for administering the advance payments of the premium tax credit, my understanding is that the IRS and the Department of Health and Human Services are working in close cooperation to ensure that appropriate protocols are in place to administer the advance payments. I look forward to working with the Committee on this issue.

b. If confirmed, can you please commit to having the Department provide a detailed briefing to describe what protocols are currently in place and any changes that will improve data security at the IRS under your leadership?

Yes.

Question 52:

The Treasury Inspector General for Tax Administration (TIGTA) reported that the IRS is undergoing a new income and family seize verification project.

If confirmed, can you commit to providing a briefing describing the project, any findings that have resulted from the project, how the project will be used in the implementation of APTC under PPACA, and how it will improve capabilities at IRS as it relates to verifying income and family size?

Yes.

Question 53:

I have concerns regarding the abuse of APTC. If confirmed, can you commit to having the Treasury Department provide a briefing on the following program integrity questions:

a. **Whether they have reviewed, commissioned or completed any analysis showing the number of individuals that will be eligible for APTC, but who are not required to file a tax return.**

b. **How the Department will ensure APTCs are provided appropriately, especially for individuals that may not file because their income is below the filing threshold, but have a total household income that makes them ineligible for Medicaid and therefore eligible for an APTC.**

c. **How the IRS will determine eligibility for individuals that apply for an APTC but have not filed a return, regardless of the reason.**

d. **Whether the Department has conducted an analysis on the population between 100% and 400% of FPL to determine the number of applications they expect to receive for which no tax return is available to determine eligibility.**

e. **A description of the process in place at the IRS to review applicant responses contesting the eligibility determination made by the IRS.**

f. **Whether the IRS is coordinating with HHS to ensure that eligibility criteria for APTC are the same for cost-sharing reduction (CSR) subsidies?**

g. **Provide a detailed timeline highlighting milestones that the IRS will work to meet to ensure the eligibility determination system, in coordination with state, partner and federal exchanges, will be ready by October 1, 2013.**

Yes.

Question 54:

In a letter to Secretary Geithner, I raised concerns regarding the Department's interpretation of PPACA as it relates to APTC availability through the federally-facilitated exchange. The statute clearly states that subsidies are only available to individuals in state-based exchanges, established under Section 1311 of PPACA. Do you agree with this interpretation of the law, and if so, please provide a legal analysis describing the specific provision of law granting the Treasury Department the authority to make APTC subsidies available through the federal exchange.

I believe that Treasury has a responsibility to implement the laws passed by Congress in a careful and thoughtful manner. My understanding is that for this regulation, Treasury's Office of Tax

Policy (OTP) and the Internal Revenue Service (IRS) followed their standard process for drafting, approving, and publishing tax regulations generally. I also understand that the public submitted numerous written and oral comments in response to the proposed regulation; that both OTP and IRS reviewed each comment carefully; that for this issue, OTP and IRS concluded that the statute should be interpreted as in the proposed regulation; and that the final regulations reflect this view.

Question 55:

In a letter to the President I raised concerns with the lobbying efforts of multiemployer plan requesting access to APTC for collectively bargained plans, mostly because of their concerns about the impact of PPACA on the cost of insurance. Is it your view that multiemployer plans are not eligible for APTC because they will be under the definition of minimum essential coverage if they plans meets affordability and minimum value standards? If not, please provide a legal analysis outlining how collectively bargained plans may access APTC, when the law clearly states that APTC is only available to individuals no eligible for minimum essential coverage from a source other than the individual health insurance market.

The Administration is continuing to issue regulations and other guidance to help employers, workers, and others implement the Affordable Care Act. As Treasury responds to further questions regarding the implementation of health reform, I can assure you that any regulations will continue to faithfully reflect the law, as enacted by Congress.

Question 56:

The annual fee on health insurance providers contained in the Patient Protection and Affordable Care Act (PPACA) is unusual in that it raises a set amount of revenue that is then apportioned amongst that industry. Discussions with various members reveals that such revenue was intended to cover the federal costs of both states' Medicaid expansions as well as Exchange subsidies and tax credits. Will you support an annual study which calculates these federal costs and then compares such costs to the revenue raised from the fee?

Under the Affordable Care Act, the amount of the fee to be imposed on entities that provide health insurance is set forth in the statute. Although I have not yet had an opportunity to fully develop a policy position on the specific matter referenced in your question, I look forward to working with the Congress on this issue.

Question 57:

There is an annual fee on health insurance providers contained in the Patient Protection and Affordable Care Act (PPACA). Although the fee technically falls on insurers, the Joint Committee on Taxation has determined that "a very large portion of the fee" will be "borne by consumers". Will you support a study on the impact this fee has on public

education institutions and as well as students obtaining health insurance through their university?

The fee is imposed on entities that are in the business of providing health insurance, and those entities are responsible for paying the fee. Although I have not yet had an opportunity to fully develop a policy position on the specific matter referenced in your question, if confirmed, I look forward to working with the Congress on this issue.

Question 58:

Prior to the enactment of the bipartisan tax relief plans in 2001 and 2003, Federal taxes as a percentage of GDP were at record levels. In 2000, CBO reported Federal taxes at 20.9% of GDP.

Even after the bipartisan tax relief is fully in effect, taxes will remain at or near the historical average percent of GDP. Over the last few decades, taxes have averaged around 18 percent of GDP.

On August 14, 2008, Jason Furman and Austan Goolsbee, two senior advisors to then-Senator Obama, wrote an op-ed in the Wall Street Journal. Among other things, Furman and Goolsbee indicated that, if elected, Obama's fiscal policy would leave the historic revenue take in place:

> **Overall, Sen. Obama's middle-class tax cuts are larger than his partial rollbacks for families earning over $250,000, making the proposal as a whole a net tax cut and reducing revenues to less than 18.2% of GDP – the level of taxes that prevailed under President Reagan.**

On November 25, 2012, Warren Buffett, writing in the New York Times, said that "Our government's goal should be to bring in revenues of 18.5 percent of GDP."

a. **Do you agree with Messrs. Furman and Goolsbess that the federal government's revenues should be "less than 18.2% of GDP"?**

b. **Or do you agree with Mr. Buffett that the federal government's revenues should be "18.5% of GDP"?**

c. **What level of revenues as a percent of GDP should the federal government receive?**

d. **What is the position of the Obama Administration as to what federal government revenues should be as a percentage of GDP?**

I believe, in the context of a sustainable fiscal policy, that the federal government must collect a level of taxes sufficient to support the services the public expects us to provide in order to ensure our continued national security and general welfare. Given projected demographic and economic trends, this will require a revenue-to-GDP ratio that is higher than 18.5 percent. Under

the Administration's FY 2013 Budget policies, which I believe to be fiscally responsible, federal receipts would rise to 19.2 percent of GDP by 2017 and to 20.0 percent by 2022.

Question 59:

On January 31, 2013, it was widely reported that John Engler, president of the Business Round Table, said that in meetings with business leaders in December 2012, President Obama indicated his support for moving to a territorial tax system.

Later that day, a spokesman for President Obama stated that the President does not support a move to a pure territorial tax system.

Furthermore, the President's Framework for Business Tax Reform (February 2012) stated that "Although the U.S. tax system is often described as 'worldwide' because it taxes U.S. companies on profits earned abroad, opportunities for deferral can make it effectively much closer to a territorial system ... for many companies."

I am unaware of any significant proposals to enact a pure territorial tax regime in the United States, so the statement from the President's spokesman perhaps did not clarify much.

a. **The Framework almost sounds like the current system is too territorial, and needs to be more worldwide than it currently is. Is that the President's position?**

   The President's Framework for Business Tax Reform supports a hybrid approach that reduces incentives for companies to shift profits and investment to low-tax countries, puts the United States on a more level playing field with our international competitors, and helps end the global race to the bottom on corporate tax rates—while also making American companies more competitive globally. There is considerable debate as to how to reform the international tax system, but I believe that there is common ground on this subject, including a mutual concern about preserving the U.S. tax base by reducing incentives that encourage the shifting of investment and income overseas, and making the United States more competitive globally. I look forward to working with the Committee on a bipartisan basis to develop approaches to international taxation that will ensure the United States will retain and attract high-quality jobs.

b. **Could you please clarify the President's position in this regard?**

   Please see my answer to Question 59(a).

c. **The Framework proposed requiring companies to pay a minimum tax on overseas profits. Can you provide more details on the proposed minimum tax? Would this be a new category of Subpart F income? If such amounts are subsequently distributed to the US parent, would section 959 apply so as to exclude those amounts from gross income?**

Or would section 959 somehow only partially apply? Or would there be a credit against the combined total of foreign and US taxes already paid?

The President's Framework is intended to lay the foundation for a dialogue with Congress and stakeholders on tax reform. I believe that there is common ground that could advance efforts to reform the current U.S. international tax rules, and if confirmed, I would commit to working with Congress and stakeholders to enact tax reform. This would necessarily entail a dialogue on the various measures that would best strengthen the international tax system in a manner consistent with the principles and goals set forth in the Framework.

d. When can we anticipate a more robust proposal from the President on international tax reform?

The President's Framework is intended to lay the foundation for a dialogue with Congress and stakeholders on tax reform. I understand that the Administration has been engaged in an ongoing process, consulting with stakeholders, tax policy experts, members of Congress, and other policymakers. If confirmed, I would look forward to working with you and other Members of Congress on how best to continue laying the necessary foundation for reform, and on next steps to enable us to advance the reform process.

Question 60:

President Obama says he wants permanent extension of the section 41 R&D tax credit. So does Chairman Baucus. And so do I. How do you propose we make this a reality?

The Administration strongly supports the continuation of the Research and Experimentation (R&E) credit and has proposed to expand the R&E credit and make it permanent. If confirmed, I pledge to work with the Committee to make the R&E credit a permanent and effective incentive for research and innovation.

Question 61:

At least since 2005, Treasury has every year put on its priority guidance plan to issue guidance concerning gross receipts in the context of intra-group transactions. Guidance was publicly issued in February 2006. There was a significant court decision in this area: *Proctor & Gamble v. United States* (S.D. Ohio June 25, 2010). But throughout this period, the Treasury/IRS Priority Guidance Plan statement on gross receipts guidance remained the same.

Could you assure me that, in an effort to ease administration for all parties concerned, you, if you are approved as Secretary of the Treasury, will attempt to clarify this area of the law, and that you will report back to me in 2013 as to your clarification?

I am not yet familiar with this issue, but if confirmed, I will support Treasury and the IRS's efforts to clarify this issue as necessary.

Question 62:

ASC via amended return: The GAO in 2009 recommended the following: "[T]he Secretary of the Treasury should take the following ... action[]: Modify credit regulations to permit taxpayers to elect any of the computational methods prescribed in the IRC in the first credit claim that they make for a given tax year, regardless of whether that claim is made on an original or amended tax return." Obviously, the Secretary must consider the statutory language at section 41(c)(5)(C) and there could be no electing of the traditional credit in a later year if ASC had been elected in an earlier year unless that ASC election had been "revoked with the consent of the Secretary." Keeping the statutory language in mind, as well as section 7805(b) (to the extent applicable), can you assure me, that if you are approved as Secretary of the Treasury, you will consider this GAO recommendation seriously and report back to me in 2013?

The Administration strongly supports the continuation of the R&E credit and has proposed to expand the R&E credit and make it permanent. If confirmed, I will consider the GAO's recommendation regarding the ASC election as Treasury considers ways to improve the effectiveness of the credit.

Question 63:

GROWTH Act: Chairman Baucus and I have co-sponsored legislation getting rid of the traditional credit and permanently extending the ASC at a 20% rate. If that were enacted, would the problems cited at 1, 3, and 4 *supra* go away?

Currently, a taxpayer must choose between using an outdated formula for calculating the R&E credit that provides a 20-percent credit rate for research spending over a certain base amount related to the business's historical research intensity and the much simpler ASC that provides a 14-percent credit in excess of a base amount based on its recent research spending. Increasing the rate of the ASC to 17 percent would provide an improved incentive to increase research and would make the ASC a more attractive alternative. Because the ASC base is updated annually, the ASC more accurately reflects the business's recent research experience and simplifies the R&E credit's computation. If confirmed, I look forward to working with you to increase the ASC and make the entire R&E credit permanent.

Question 64:

Allocation of Group Credit Amongst Members of a Controlled Group: The R&D credit is calculated on the basis of a controlled group of taxpayers. If one corporation owns more than 50 percent of another corporation, those two corporations would be in the same controlled group. However, two such corporations would not generally report on the same consolidated return unless the one corporation owned 80 percent or more of the other corporation. So, if two corporations are in the same controlled group, but report on

separate returns, the one group credit must be allocated between the two corporations. Treasury Regulation section 1.41-6 provides rules on how to allocate the group credit.

The President signed ATRA in early January 2013. ATRA overrides the 1.41-6 rules on allocation of the group credit. However, I can foresee that there might be taxpayer confusion over the proper allocation of the ATRA group credit allocation rules and whether there is continuing vitality to the 1.41-6 rules.

Can you assure me that you will issue guidance in 2013 on the proper allocation of a group credit?

If confirmed, I will inquire about pending guidance reflecting the change made by ATRA to the group credit allocation rules, and I will work to ensure that any necessary guidance is issued in a timely manner.

Question 65:

The Foreign Investment in Real Property Tax Act of 1980 (FIRPTA), imposes a tax on foreign persons for their dispositions of interests in United States real property. In your view, has FIRPTA actually imposed this tax on foreign persons or has it mainly created procedural hoops that foreign persons must navigate to avoid paying this tax?

I understand that FIRPTA generally subjects foreign investors' gains from the sale of U.S. real property to the same net-basis taxation that is imposed on U.S. taxpayers. I have not yet had an opportunity to develop a position on the operation of the statute, but, if confirmed, I look forward to working with the Committee to create a fair and efficient tax code so that foreign and domestic investors in U.S. real property are on a level playing field.

Question 66:

The Treasury Department touts non-risk adjusted returns on bailouts made during the financial crisis as "significant profits to taxpayers." Meanwhile, the administration continues to press for a "financial crisis responsibility fee," which would impose a tax on large financial firms which ultimately would get passed on to customers and shareholders (including retirees and pension funds), many of whom were not responsible for undertaking risks that contributed to the crisis. The President said, back in January of 2010, that his determination to impose a "responsibility" tax on financial institutions "...is only heightened when I see reports of massive profits and obscene bonuses at the very firms who owe their continued existence to the American people..."

a. **Do you continue to support a financial crisis responsibility tax?**

   Yes. The Administration continues to support the Financial Crisis Responsibility Fee and believes that it is the best approach to recouping some of the costs imposed on the economy by financial firms while, at the same time, discouraging risky behavior.

b. Do you believe that any such tax should apply to Fannie Mae and Freddie Mac; to Ally Bank; to General Motors; or to money market mutual funds?

I understand that the fee would not apply to Fannie Mae and Freddie Mac, which are in government conservatorship. Similarly, the fee would not apply to money market mutual funds since they are entities that essentially pass all their income through to fund holders.

In general, the fee would apply to any institutions that qualify as bank holding companies, thrift holding companies, certain broker-dealers, companies that control certain broker-dealers, and insured depository institutions with assets in excess of $50 billion. Firms with worldwide-consolidated assets of less than $50 billion would not be subject to the fee for the period when their assets are below this threshold. U.S. subsidiaries of foreign firms that fall into these categories and that have U.S. assets in excess of $50 billion also would be covered.

c. Do you believe that the financial crisis responsibility tax would represent a fee (tax) on current market participants as punishment (responsibility) for actions of other past market participants?

My understanding is that current companies subject to the fee benefited from government actions that stabilized the economy. The companies that would be subject to the fee include companies owning or controlling bank holding companies, thrift holding companies, certain broker-dealers, and insured depository institutions as of January 14, 2010. This was done to ensure that financial firms that benefited from the TARP contributed to the financing of the extraordinary efforts to rescue the economy.

d. Do you believe that a financial crisis responsibility tax should be levied on individuals who were executives at large financial institutions at the time the financial crisis ensued and carried on, and who received bonuses?

After consideration of a range of design options for this proposal, the Administration determined that the financial institutions that benefitted from the extraordinary assistance provided by the Federal government should be subject to this fee.

Question 67:

You have identified that there are needs for individual tax reform and corporate tax reform, and have stated that "...the primary goal in business corporate tax reform is to have the tax code be simplified and to be consistent with a more robust investment environment, particularly as we are in a competitive environment with other countries. I think it can be done in a revenue-neutral way. I don't believe we have the ability to raise the revenue that we need to deal with our fiscal problem and have it cost revenue as we go through business tax reform."

a. Do you believe that corporate tax reform ought to be done in a revenue-neutral fashion, in the interest of global competitiveness, while individual tax reform, which

would influence taxes paid by flow-through business entities, ought not to be revenue neutral?

I believe that our fiscal choices must be responsible, so that we raise enough in revenues to pay for the services the public expects us to provide in order to ensure our continued national security and general welfare. We must keep taxes as low as possible, but we must also put the federal budget on a sustainable course. A fiscally responsible level of revenues – as part of a balanced deficit reduction package that includes significant spending cuts – can help stabilize our debt as a share of the economy.

b. **If so, do you believe that corporations require lower tax rates in order to boost their competitiveness but the competitiveness of flow-through businesses is either not influenced by their tax rates or is less important that corporate competitiveness?**

As a result of a combination of a relatively narrow tax base and a high statutory tax rate, the U.S. corporate tax system is not as effective and efficient as it should be. The system distorts choices such as where to produce, what to invest in, how to finance a business, and what business form to use. And it does too little to encourage job creation and investment in the United States while allowing firms to benefit from incentives to locate production and shift profits overseas. That is why the President's Framework for Business Tax Reform would reform the business tax base to reduce distortions that hurt productivity and growth. It would also lower the statutory corporate tax rate to 28 percent, putting the United States in line with major competitor countries and encouraging greater investment in America.

c. **Do you have any concerns with discrepancies between corporate tax rates and tax rates applied to flow-through businesses? If so, what are the concerns and how would you ease those concerns. If not, why not?**

There are a variety of concerns about differences between the taxation of corporations and the taxation of flow-through businesses. The relationship between taxes imposed on different types of business entities must be considered as part of comprehensive tax reform to ensure that the resulting system is as efficient and equitable as possible. If confirmed, I would look forward to working with the Committee on this important issue.

d. **The administration has, recently, referred to a small collection of alterations of specific, idiosyncratic elements of the tax code, such as changes in depreciation rules applied to commercial aircraft, as "tax reform." This, to me, represents an exercise in creative license with respect to the term "tax reform" and suggests that there may be disagreements about what, exactly, different people mean by that term. How would you define "tax reform?"**

I think that tax reform is a term that is sufficiently expansive to encompass any number of related ideas that have at their core some notion of an improved tax system. Tax changes that are properly considered reforms should improve some aspect of the tax system, such as efficiency or equity or simplification.

e. **Related to part d. above, how would you define a tax "loophole" and please provide me with, given your definition, a list of the five largest loopholes in the personal-income tax code and a list of the five largest loopholes in the corporate-income tax code.**

The term "loophole" is a non-technical term that can be used to mean a variety of different things. In the strictest sense, a loophole can be seen as a feature of the tax system that leads to outcomes that were unanticipated and are contrary to the intent of a tax provision. A more commonly used description would cover special tax benefits, many of which may be unjustified.

The President's FY 2013 Budget makes a number of recommendations to tighten up tax rules by eliminating what many would call loopholes.

If confirmed, I look forward to working with the members of the Committee in developing a tax system that is simple, fair, and efficient.

Question 68:

Do you believe that economic activity is invariant to tax rates on upper-income earners?

In principle, there is a connection between marginal tax rates and economic activity. However, there is substantial evidence suggesting that cuts in top marginal rates at the levels currently in effect have only small effects on real activity, and that any such effects are outweighed by the costs of the higher deficits associated with these rates. I consider economic growth and efficiency, as well as fairness, as important components for the tax code.

Question 69:

Your testimony before the Finance Committee identified that "The President says he thinks it should be 2:1, spending cuts to revenue." However, the ratio seems to vary over time and circumstances. I also believe that you and others have suggested that somewhere around $2.5 trillion of deficit reduction has already been put in place, though those numbers also vary significantly.

a. **With respect to the administration's views on any potential alteration of the upcoming so-called "sequester" spending reductions, does the administration believe that there ought to be an alteration such that 100% of the scheduled spending reductions are replace with other spending reductions and even more tax hikes such that there is a 2:1 spending-cut to revenue-increase ratio?**

The Administration supports a gradual and balanced approach to deficit reduction, replacing the sequester with deficit reduction that is supportive of our near-term economic recovery and long-term fiscal sustainability. I support the President's long-stated approach to reach agreement on further balanced deficit reduction that avoids

sequestration. Sequestration is a blunt and indiscriminate approach to spending cuts that was never intended to be put into practice. It would have severe impacts across the government and impair its ability to provide the services the American people count on.

b. With respect to deficit and debt reduction, how much deficit and debt reduction has taken place to date (i.e., been realized), and how much represents promises of future spending reductions intended, but not required, to lead to deficit and debt reduction?

The Administration and Congress have made substantial progress toward reducing the deficit over the past two years. As a share of the economy, the deficit has fallen from more than 10 percent at the height of the financial crisis to 7 percent in fiscal year 2012. Deficit reduction measures in the ATRA will lower the deficit-to-GDP ratio further by the end of this year. Looking forward, the President put forward a plan in the FY 2013 Budget that would bring total deficit reduction over the 10-year budget window to $4 trillion, stabilizing the debt as a share of the economy before the end of the decade. $2.5 trillion of this $4 trillion has already been signed into law.

Question 70:

Do you support increasing payroll taxes on income of a shareholder who provides substantial services to a professional service business organized as S corporations? If so, please explain why and, if so, do you believe the increased payroll tax should apply only to certain levels of income? If so, do you believe that any increased payroll tax payments should be accompanied by increased future benefits from the Social Security system?

I understand that the Administration has not proposed such a change in any of its annual budgets. I have some familiarity with the arguments on both sides of the issue, but have not established a specific view. As an increasing number of business organizations, large as well as small, have organized themselves as pass-through entities, we need to consider to what extent this change might erode the tax base that supports Medicare and Social Security. The issue deserves further consideration, and I look forward to working with you and the Committee on any proposals you may consider in this area.

Question 71:

You have repeatedly identified an ongoing need for federal "investments," which always means more federal government spending. You have repeatedly identified an ongoing need for "infrastructure" investments, though I am never sure exactly what people mean when they say "infrastructure," and definitions can, unfortunately, be wide-ranging, incomplete, and inclusive of spending on projects that have questionable financial and social returns. Recent proposals for a national infrastructure bank have vaguely defined infrastructure, and have included provisions allowing for such a "bank" to alter its definition of infrastructure whenever it desires.

As a result, the term infrastructure has virtually no meaning and could include almost anything from laying redundant fiber cables in areas not in need of them to turtle tunnels surrounding road or bike path construction. When you speak of investments in infrastructure, what precisely do you mean and how does your definition exclude things as not being infrastructure?

Infrastructure comprises the facilities needed for the functioning of a community or society, and in practice supports the productive function of our economy in a competitive global environment. The President is committed to revitalizing America's infrastructure.

Question 72:

Some are currently arguing that federal spending reductions scheduled to occur as a result of the so-called "sequester" will reduce the gross domestic product (GDP) and jobs in the near term; that GDP and jobs would fall by the same amounts if there were alterations to the sequester cuts such that there is an equal amount of federal spending reduction, but in different activities than those called for in the sequester as it currently stands; but that, somehow, negative effects of the sequester on GDP and jobs would be lower if the spending cuts called for by the sequester were replaced with a "balanced" (whatever that means) mix of tax hikes and other spending reductions.

a. **Do you agree with that argument?**

   The Administration supports a gradual and balanced approach to deficit reduction, replacing the indiscriminate cuts of the sequester with deficit reduction that is supportive of our near-term economic recovery and long-term fiscal sustainability. This requires consideration of both the composition and the timing of fiscal consolidation. First, spending cuts and revenue increases should be targeted so that they are most supportive of economic activity and growth. Second, the timing of fiscal consolidation should not impose further immediate and sharp cuts, as fiscal tightening, including that which is already occurring, should be phased in over time.

b. **If so, why do you believe that tax hikes and some spending cuts that somehow differ from those called for by the Budget Control Act of 2011 would somehow attenuate negative effects on GDP and jobs? If you do have such a belief, please provide economic analysis that supports your belief.**

   The sharp and indiscriminate spending cuts in the sequestration frontload fiscal consolidation. An alternative approach commits to fiscal consolidation at a measured pace, achieving the same level of deficit reduction, but doing it in a way that is more supportive of economic growth in the near-term. This approach also acknowledges the fact that the components of deficit reduction can have different short-term multipliers, reflecting their differential impact on the economy, and many investments, such as education and infrastructure, have long-run benefits for economic growth.

c. **If you have the belief identified in b. and your analytical support relies on Keynesian multipliers, please identify whether you are relying on general tax and spending multipliers or unreliable and incredible sector-specific multipliers.**

The argument is based on general multipliers used by the CBO and other budget analysts and researchers.

d. **If, as in c., you rely on Keynesian multipliers, please explain the mechanism you have in mind through which federal spending and/or tax changes lead to changes in GDP and employment, such as sticky prices, sticky wages, financial frictions, or other such rigidities in markets, and provide any evidence that you have consistent with those transmission mechanisms somehow leading to failures of markets to clear.**

The general mechanisms underlying new Keynesian macroeconomics are widely documented and widely accepted in modern mainstream macroeconomics; these include not only economic rigidities and frictions, but also the presence of spillovers, externalities, and public goods that may be present in Classical economics.

Question 73:

Last May the Social Security Trustees reported that the Social Security Disability Trust Fund will be exhausted by 2016. When that happens, disability benefit payments will be reduced by 21% unless Congress acts. SSDI benefits are funded through payroll taxes, as are Social Security retirement benefits. Other than raising payroll taxes, or diverting payroll taxes from tbe retirement trust fund as Congress did in 1994, what do you recommend Congress do to shore up the SSDI trust fund and avoid a 21% cut in benefit payments?

The projected exhaustion of the DI Trust Fund requires attention and modernization to ensure that the disabled and those who may need the program in the future can continue to count on the benefits provided by disability insurance. In order to achieve this goal, the Administration has been looking at ways to improve the administration and performance of the program so that it is more efficient and better serves the needs of the disabled, now and in the future. If confirmed, I would look forward to working with the Committee on these reforms.

Question 74:

As a means to cut the deficit, President Obama has called for capping deductions in each of his previous budgets, as well as a way to help pay for health care reform. Specifically he asked for a 28% cap on all itemized deductions for upper income earners. This would include the charitable giving deduction. Now, many reports have come out showing any cap, cut, or limit to the charitable deduction would decrease giving. Reports examining a 28% cap found that it would result in a $5.6 billion decline in charitable giving for one year, directly impacting charities on the ground. Furthermore, the Pease limitation on itemized is once again included in the tax code. Given this data, will the Administration

call again for 28% cap? If so, what are your estimates of its impact– which ought to be even worse now that the difference between the highest rate and 28% has widened?

I recognize the important role played by our nation's charitable sector. Through our charities, millions of Americans join together, contributing funds and volunteer hours, to meet the needs of their communities. Charities provide healthcare, social services, and disaster assistance to those in need, among other things. They conserve our natural resources and expand the boundaries of our knowledge through scientific research. And they enrich our communities through education, athletics, and the arts.

Unlike some other proposals to curb tax expenditures, the Administration's previous Budget proposal to limit the value of itemized deductions and certain other tax expenditures to 28 percent would have a modest impact on the incentive to make charitable gifts. This is because the tax incentive on the last dollar of giving potentially would be somewhat reduced but not eliminated. Moreover, only a small fraction of taxpayers – married couples with incomes in excess of $250,000 and single taxpayers with incomes in excess of $200,000 – would be affected by the proposal. Charitable giving by non-itemizers and taxpayers with incomes below these thresholds – the vast majority of donors – would not be affected by the proposal.

The Administration's FY 2013 Budget proposal to limit the benefit of itemized deductions to 28 percent is intended to be an even-handed approach covering all itemized deductions and is not intended to single out the charitable sector. But the Administration is also looking forward to a broader dialogue about tax reform and as part of that discussion would be open to discussing alternative ways of treating charitable deductions to ensure that the incentive is cost effective and fair. If confirmed, I look forward to working with this Committee to ensure that our tax system is fair and efficient, and appropriately supports our charitable sector.

Question 75:

Earlier this week the Joint Committee on Taxation released a report saying individuals donated almost $218 billion in 2011, a four year high coming out of the Great Recession. For 2012, though preliminary, reports have estimated that giving increased to over $230 billion, more than a 6% increase from 2011. And yet for 2013, the giving is only projected to increase 1.6%, a significant decline compared to the strong growth of previous years. In light of these numbers, does the Administration plan to propose in its budget another 28% cap on the charitable deduction, even though all the data suggests such a cap will lead to a decline in giving?

The Administration's FY 2013 Budget proposal to limit the benefit of itemized deductions to 28 percent is intended to be an even-handed approach covering all itemized deductions and is not intended to single out the charitable sector, which I strongly support. But the Administration is also looking forward to a broader dialogue about tax reform and as part of that discussion would be open to discussing alternative ways of treating charitable deductions to ensure that the incentive is cost effective and fair. The FY 2014 Budget has not yet been released, so I cannot speak to what may or may not be included therein.

Question 76:

We know that volunteers are often the backbone of charity. In October of 2011 this committee held a hearing on the tax treatment of charitable giving, and several of our witnesses noted that a decrease in charitable donations would cause a direct cut back in volunteers. Specifically, Brian Gallagher, President and CEO of United Way Worldwide said "The reason that charitable giving and private sector delivery of service is so efficient is that volunteers follow the money, and so you are leveraging somebody's contribution." So calling for a cut in the charitable deduction, as the President has done in all his last budgets, will drive less giving. But it will drive fewer volunteers. Please comment on the negative impact on volunteers of the President's 28% proposal?

The Administration's FY 2013 Budget proposal to limit the benefit of itemized deductions to 28 percent is intended to be an even-handed approach covering all itemized deductions and is not intended to single out the charitable sector, which I strongly support. I understand that the Administration's proposal would have only a modest impact on charitable giving. But the Administration is also looking forward to a broader dialogue about tax reform and as part of that discussion would be open to discussing alternative ways of treating charitable deductions to ensure that the incentive is cost effective and fair. I look forward to working with this Committee to ensure that our tax system is fair and efficient, and appropriately supports our charitable sector.

Question 77:

The International Monetary Fund has suggested a globally-coordinated bank tax. Actually, the IMF has proposed two bank taxes – a so-called Financial Stability Contribution, mainly based on a bank's balance sheets, to help pay for the cost of winding down troubled financial institutions. The other proposed IMF bank tax would be a "Financial Activities Tax", levied on the sum of profits and compensation of financial institutions, to help finance the broader costs of a financial crisis.

A recent UK Chancellor of the Exchequer, Mr. Alistair Darling, welcomed these IMF proposals for two international bank taxes. Mr. Darling has gone on to say that a unilateral tax, imposed by just one country, "would simply risk being undermined."

Strong allies and trading partners of the US, such as Canada, Australia, Japan, and India have expressed significant reservations about the proposed IMF global bank tax.

a. **Do you support either of the IMF's suggestions for a global bank tax?**

   It is my understanding that in 2010, at the request of the G-20 Leaders, the IMF issued a report on how the financial sector could make a fair and substantial contribution to meeting the costs associated with government interventions in the crisis. The IMF analyzed three options: a financial stability contribution, a financial activities tax, and a financial transaction tax. The IMF concluded that the latter tax was inefficient, vulnerable to evasion, and likely to fall on retail investors. For those reasons, the IMF

only recommended the first two options for those countries that were contemplating fees on their banks.

The IMF's proposal for financial stability contribution is similar to President Obama's proposed Financial Crisis Responsibility Fee. The Financial Crisis Responsibility Fee imposes a modest fee on the riskiest parts of the balance sheets of financial institutions with assets over $50 billion so that taxpayers are not on the hook for excessive risk taking by the largest financial institutions.

b. Was the Chancellor of the Exchequer correct that a unilateral tax, imposed by just one country, "would simply risk being undermined"?

I am not familiar with Mr. Darling's remarks. In January 2011, the UK instituted a financial fee on the balance sheets of financial institutions, which remains in place.

c. At the margin, would a US-specific bank tax drive financial institutions to countries without a bank tax? Why or why not?

My understanding is that the Treasury believes that the Administration's proposed Financial Crisis Responsibility Fee is a smarter proposal than a financial transactions tax because the fee is levied on the riskiest assets of the largest firms, so it is unlikely to create incentives to move activities offshore. To the extent it changes incentives, it would likely discourage excessive risk taking by the largest institutions and push activities to institutions below $50 billion in size on the margins.

d. Let us suppose for a moment, even though this is unlikely, that all G20 countries agreed to impose a global bank tax, along the lines of what the IMF has proposed. However, let us suppose that Hong Kong, one of the world's leading banking and financial centers, refused to impose a bank tax. Would this drive tremendous amounts of banking from the G20 countries to Hong Kong?

As noted above, a fee imposed on the riskiest assets of the largest firms would most likely change incentives in favor of less risky assets and smaller institutions within each jurisdiction rather than drive transactions offshore.

e. How should the US respond to the concerns of Canada, Australia, Japan, and India about the proposed IMF global bank tax?

It is my understanding that the G-20 Leaders agreed at the Toronto Summit in June 2010 that individual countries should make the determination whether they would impose any fees or taxes on their financial sectors. The Administration has consistently opposed a financial transactions tax on the grounds that it would be vulnerable to evasion, create incentives for financial reengineering, and burden retail investors.

Question 78:

Mr. Lew, President Obama talks frequently about 'closing loopholes' to raise revenue. I am concerned that it sounds like the administration's definition of a loophole may be different from how the term is generally understood. I think of a tax loophole as the use of a tax provision in a way not intended by Congress when enacted. How do you define the term 'loophole'? Do you have general criteria for determining what a loophole is or does your definition depend solely on who or what industry is utilizing a given tax provision?

The term "loophole" is a non-technical term that is used to mean a variety of different things, depending on the context. In the strictest sense, a loophole is a feature of the tax system that leads to outcomes that were unanticipated and are contrary to the intent of a tax provision. A more commonly used description would cover special tax benefits, many of which may be unjustified.

While the term "loophole" is subject to various definitions, what really matters in considering tax reform is identifying features of the tax system that promote or hinder its operation – provisions that make the tax system more or less efficient, fair, simple, and so forth. I look forward to working with you and the Committee on tax reform that will make the tax code simpler, fairer, and more efficient.

Question79:

Carbon Tax – In President Obama's inaugural address he pledged to address climate change in his second term. A carbon tax is one of the options that President Obama could pursue. Given the enormous tax increase that would result from a carbon tax, how would you advise the president to use carbon tax revenues? What would your highest priorities be?

The Administration has not proposed a carbon tax, nor is it planning to do so.

Question 80:

Prior to enactment of the fiscal cliff tax legislation (ATRA) maximum marginal income tax rates for both C corporations and individuals were the same (35%). Under current law business activities conducted by individuals or flow-through entities taxed to individuals are now taxed at a higher maximum marginal rate (39.6%) than business activities conducted by C corporations (35%). The tax provisions implemented under the Affordable Care Act add an additional 3.8% tax burden on business activities taxed to individuals in many cases as well. This wedge could grow even larger as the United States now has the highest corporate income tax rate of any OECD country and there is bipartisan agreement that corporate tax rates should be reduced as part of any meaningful tax reform. Is it good tax policy to have substantially higher tax rates apply to business activities conducted by individuals or flow-through entities taxed to individuals?

Setting appropriate tax policy involves tradeoffs. Tax rates should be as low as possible consistent with the need to pay for the goods and services expected by the public and necessary to provide for our common defense and general welfare. It seems appropriate that our most

affluent families should shoulder a reasonable share of the burden of keeping our fiscal house in order, and that is what underlies the Administration's support of the individual income tax increases that you identify.

In undertaking comprehensive tax reform, the relationship between individual and corporate income tax rates is an important consideration, and I look forward to working with you and the Committee on these issues.

Question 81:

Differential tax rates on various types of income account for much of the complexity in our present tax system. Is it good policy to have differential tax rates apply to various types of income such as income from labor, capital gains and dividends?

There are some good reasons to tax different income items differently. For example, because capital gains are taxed at realization rather than as they accrue, investors might hold on to less productive assets for longer than they should. Taxing capital gains at lower rates may reduce this lock-in effect. Similarly, capital gains on assets held over a long period of time may reflect a substantial inflation component. This is another rationale used to support a preferential tax rate on capital gains income. On the other hand, differential treatments sometimes create complexity and incentives to mischaracterize the form of income – such as the incentive to mischaracterize labor income as capital income in the form of carried interest. We have to consider the costs and benefits of setting different rates. If confirmed, I look forward to working with this Committee to strike this balance and improve the efficiency, equity, and simplicity of our tax code.

Question 82:

Much of the complexity in our current income tax system is derived from the fact that we use it as a platform to encourage a variety of economic behaviors with public policy goals related to health care, retirement, housing and education to name a few. Please identify the provisions that you feel are the best examples of using the tax system effectively and efficiently to achieve desirable public policy goals. In addition, please identify those tax provisions that you feel have failed to achieve desirable public policy goals. In each case explain why.

We should never lose sight of the fact that the primary purpose of the tax system is to raise revenue to fund needed government programs. However, our tax system can be a mechanism for meeting other policy goals. The earned income tax credit is one example of a provision that is widely regarded as a success in terms of encouraging work and lifting families and children out of poverty. The credit, which was proposed by President Nixon and added to the Tax Code in 1975, has enjoyed bipartisan support over the years. It was made permanent in 1978 and significantly expanded during the 1986 tax reforms, which indexed the credit for inflation and expanded eligibility. There are other well-intended provisions in the tax code that have been less successful in achieving policy goals, or are aimed at goals that could be better achieved through direct spending outside of the tax code. If confirmed, I look forward to working with this Committee to identify and improve or eliminate these provisions, and to strike the right balance

between raising revenue and meeting other policy goals as efficiently, fairly, and simply as possible.

Question 83:

The Congressional Budget Office has recently estimated (Feb., 2013) that total federal tax receipts will reach 19.1% of GDP by fiscal year 2015 and spending will fall to 21.6% of GDP. Over the past 40 years average tax receipts as a percentage of GDP have been 17.9% while spending has averaged 21%. Last year Warren Buffet stated that raising 18.5% of GDP in tax revenues and spending 21% was a sustainable long-term pattern. What do you think are appropriate and sustainable long-term levels of tax revenue and spending relative to GDP?

While historical averages are a useful benchmark, it is important to bear in mind that we face very different circumstances now than in previous decades. For example, the demographic profile of our population is changing. Baby boomers are retiring. An increasingly larger share of our population is becoming eligible for Social Security and Medicare. These demographic changes raise the share of spending in GDP needed to support the commitments already made to our seniors. If confirmed, I look forward to continuing to work with Congress to bring down deficits through a balanced combination of spending cuts and revenue increases in a manner that allows America's seniors to retire with dignity.

As noted above, benchmarks for fiscal sustainability include a stable debt-to-GDP ratio, which assure that the gap between spending and revenue is reduced to stabilize the debt as a share of the economy.

Question 84:

As you know the District Court recently ruled (*Loving*, No. 12-385 (D.D.C. 1/18/13)) that the IRS does not have the statutory authority to regulate tax return preparers it presumed it had when it imposed registration (PTIN) and competency standards. What level of federal regulation is appropriate and necessary for tax return preparers? If Loving is upheld on appeal should Congress pass legislation that gives the IRS specific authority to regulate tax return preparers?

I have not had an opportunity to fully develop a policy position on the IRS's return preparer program. If confirmed, I look forward to working with you and the Committee in considering whether additional legislation is necessary.

Question 85:

As you know Douglas Shulman recently completed his term as IRS Commissioner. What do you think are the greatest challenges that the new IRS Commissioner will face? What aspects of tax administration do you think are most important for the new Commissioner to focus attention and resources on?

The IRS, like other agencies, is facing a number of challenges made all the more complicated by the current budget environment. Obtaining sufficient resources to maintain robust service and enforcement programs is certainly one of the greatest challenges facing the IRS today. In addition, over the past few years, the IRS has seen a significant increase in refund fraud schemes, particularly those involving identity theft. Ensuring adequate information technology capabilities is another major challenge for the IRS.

Question 86:

Your employment agreement with the Citigroup Global Wealth Management (GWM) business has a provision stating:

> ***Treatment of Equity Compensation Upon Separation:***
>
> ***Notwithstanding anything to the contrary (whether in this agreement or otherwise), if you terminate your employment on or after January 1, 2008, as a result of your acceptance of a full-time high level position with the United States government or regulatory body, all of your outstanding equity awards (basic shares, premium and supplemental shares) (including your sign-on restricted stock award, or any cash award in lieu thereof, and the stock portion of any incentive and retention awards) will immediately vest, or, at GWM's sole discretion, GWM shall promptly pay you the cash equivalent of any forfeited shares measured as of the date of termination.***

a. **Why didn't Citi provide such acceleration of vesting if you had left Citi to work for a charity?**

b. **Why didn't Citi provide such acceleration of vesting if you had left Citi to work in the private sector not in competition with Citi?**

c. **Why didn't Citi provide such acceleration of vesting if you had left Citi to retire?**

d. **Do you believe Citi was pleased to have one of their senior employees accept a full-time high level position with the United States government?**

e. **Does Citi have any current dealings with employees of the United States government, and in particular in the Treasury Department?**

f. **Could there be any potential advantage to Citi in having one of its recent former employees be in a full-time high level position with the United States government?**

g. **How was the determination made that a position with the United States government was sufficiently "high level" that this benefits vesting acceleration clause was triggered? Who made that determination? What were his/her criteria?**

Given my long history of public service, and interest in potentially returning to it, I sought this provision. I believe Citigroup agreed to include it, because such an agreement was consistent

with Citigroup's goal of using deferred compensation, such as the vesting of stock compensation over time, to discourage employees from leaving and joining competitors. I did not have a similar personal history with private sector non-competitors or with charities, and I had no plans to retire at the time. When I left Citigroup, there was general agreement that my departure to become Deputy Secretary of State satisfied the provision.

In regard to your other questions, I have no knowledge of Citigroup current business dealings. I have always complied with government ethics rules and have always followed the guidance of ethics officials. If confirmed, I would continue to do so.

Question 87:

You identified in your testimony, with respect to your roles in Citigroup's Global Wealth Management and Citigroup Alternative Investments units, that you were not in the business of making investment decisions, but were "...certainly aware of things that were going on..." and that you "...take away from that experience a deep understanding that there are risks that we need to be very much on guard against..." and I would be delighted to discuss those policy considerations as we go forward. You also identified that you were "...aware that there were funds that were in trouble."

a. **Please identify any specific risk-taking activities of the Global Wealth Management and Citigroup Alternative Investments units that provided you with understanding of risks that we need to guard against.**

b. **Did you have knowledge of allegations surrounding Citigroup's Class V Funding Collateralized Debt Obligation, or the ASTA, MAT, or Falcon funds and did you participate in any discussions or correspondence about those allegations? If so, please provide details.**

c. **While managing with an objective of provide efficiencies at the Citigroup units that you oversaw, were any services of Citigroup Global Services utilized?**

In my testimony, I was referring to the general factors that contributed to the 2008 financial crisis, including the emergence and rapid growth of institutions and financial activities outside the scope of classic banking regulation (commonly referred to as the "shadow banking" system); a dramatic and widespread increase in leverage and risk; increased reliance on short-term funding sources (such as the repurchase or "repo" market); fundamental breakdowns in risk management practices across the financial sector; increased complexity and lack of transparency regarding the over-the counter derivatives markets; and, an outdated and inadequate regulatory structure, with weak or nonexistent capital requirements. As I testified, it has been quite a number of years, and I do not recall the specific Citigroup financial products, or investment funds referenced in your question.

Question 88:

At least one of your employment agreements with Citigroup included a clause stating that "your guaranteed incentive and retention award" would not be paid upon exit from Citigroup, but there was an exception that you *would* receive that compensation "as a result of your acceptance of a full-time high level position with the United States government or regulatory body..." Please explain this exception in your employment agreement and whether you are aware if such an exception is provided in agreements of executives at the time you were at Citigroup who were similarly situated relative to the position for which you were accepting.

The provision referenced in your question states that certain guaranteed awards would not be paid if I left Citigroup before the end of 2007. As your question also notes, there was a limited exception to that provision. I did not leave Citigroup, however, until 2009. Accordingly, neither the provision nor the exception was triggered. I am not familiar with the employment agreements of other Citigroup employees.

Question 89:

Mr. Lew, we've heard that you had not heard of the Ugland House until last week, though for many years you were a limited partner in a hedge fund that was domiciled there. This is especially interesting given that the Ugland House has become a symbol to many of my colleagues for many bad things that need to be stopped. The specific nature of the activity differs from speech to speech, but any casual observer of Congress could not fail to believe that very bad things happen at the Ugland House based on statements made by my colleagues. Based on a search of the Congressional Record for the past 4 years, or last two Congresses before the current Congress, the Ugland House was mentioned at least 44 times on the Senate floor, and many of those times by the then Chairman of the Budget Committee.

In a speech given last year on September 20, the former Budget Chairman gave a speech where he literally said that Congressman Paul Ryan's budget was a monstrosity. One of the reasons that budget was a monstrosity was "they refuse to do anything to close the tax loopholes that are allowing certain wealthy people to avoid paying taxes in this country entirely. I have shown on the floor of the Senate many times a picture of a five-story building in the Cayman Islands called the Ugland House." In the same speech the Budget Chairman claimed that "the Ryan budget fails the moral test.

Mr. Lew, I am interested in your point of view on this since in your two tenures as Director of OMB you have put together multiple budgets.

The former Chairman of the Budget Committee used very strong language in discussing the Ugland House and the activities attributed to it. Many others have used similar language too. How do you respond to that rhetoric, in general and specifically regarding your own investment headquartered at the Ugland House?

In regard to my investment, I made it because I wanted to diversify my portfolio, invest in international companies, and modestly increase the risk of my holdings, which always have been

very conservative. I did not consider tax issues or where the fund was located. I invested $56,000. I got back $54,418. During the course of the investment, I reported all income and expenses on my tax returns, and I paid all taxes that were due. Also, I have been fully transparent about the investment. I disclosed it to the three Senate Committees that considered my previous nominations during this Administration—as well as to the Office of Government Ethics and to ethics officials at the State Department and OMB. I have responded to every question from this Committee.

In regard to the broader issue of offshore tax evasion, my guiding principle would be, if confirmed, that all U.S. taxes should be paid, regardless of the form of a particular investment or its location. In other words, no taxpayer should be allowed to hide income outside of the United States, in an offshore tax haven, to avoid paying the appropriate U.S. taxes.

Question 90:

Mr. Lew, this hearing has shown light on a disparity. The disparity is between your Cayman Islands investment and the rhetoric from the President and my friends on the Democratic side regarding Cayman Islands investments.

Should it be a concern to US tax policymakers that many US taxpayers, did, as you did, and invested in a business organized in the Cayman Islands? That is, should we care that there may be an attractiveness to investments subjected to a low rate of tax in a foreign jurisdiction?

Put another way, isn't the answer really to look deeper and make US investments more attractive with fundamental tax reform? Wouldn't our preference be to make US businesses more attractive for US investors and foreign investors?

In regard to the issue of offshore tax evasion, please see my answer to Question 89. In regard to fundamental tax reform, I support reforming the tax system so American businesses can thrive and compete. As I testified at my confirmation hearing, I think tax reform is an extremely important priority, and, if confirmed, I would look forward to working with the Committee on a bipartisan basis to help make it happen.

Question 91:

Prior to investing in the Citigroup Venture Capital International (CVCI) private equity fund, did you analyze the investments made by the fund when and before you invested?

I believe I invested at the time the fund was created (or shortly thereafter), so there were no individual investments to analyze. Instead, I invested based on the fund's international investment strategy. I believe the fund ultimately invested in a mix of foreign corporations located around the world—in places like India, Bulgaria, Lithuania, and Chile—that were engaged in a wide range of businesses, from pharmaceuticals to power generation to vegetable oil.

Question 92:

Is OMB Memorandum 99-13 (March 30, 1999, signed by OMB Director Jacob J. Lew) still relevant guidance for the heads of departments, agencies, and independent establishments to consult in seeking to comply with the Congressional Review Act (CRA, 5 USC Chapter 8)? Has Memorandum 99-13 been superseded or cancelled?

I understand that OMB Memorandum 99-13 is still relevant guidance and has not been superseded or cancelled.

Question 93:

Who is the Treasury Department's "Desk Officer in OMB's Office of Information and Regulatory Affairs (OIRA)"? Is the Desk Officer for the Treasury Department the same as the Desk Officer for the IRS?

The Office of Information and Regulatory Affairs (OIRA) assigns career policy analysts, or "desk officers," to handle the review of regulations promulgated by agencies across the federal government, one of whom handles the Department of the Treasury and its bureaus.

Question 94:

What is the "established practice" for the Treasury Department and for the IRS to comply with the Congressional Review Act?

I am not sure precisely what you are asking, but I assume you are referring to Memorandum 99-13, referenced in question 92. Different agencies have different practices in regard to submitting rules for OIRA review, and I have not had an opportunity to review Treasury's process in detail. Nonetheless, I understand that Treasury prepares a Notice of Planned Regulatory Action for every proposed and final Treasury rule published in the Federal Register. The memorandum contains basic information, such as the title of the rule, planned publication date, and a brief description that includes information designed to help OIRA determine the status of the rulemaking under the Congressional Review Act. Treasury generally submits the memorandum to OIRA by email.

Question 95:

Mark Mazur (now the Assistant Secretary of the Treasury for Tax Policy) has informed the Committee that "Pursuant to a longstanding agreement between the Office of Management and Budget (OMB) and Treasury, Treasury is responsible for alerting OMB to any ruling document that reasonably could be expected to have a significant economic impact, which also would enable OMB to determine whether the ruling document is 'major' within the meaning of the CRA."

a. **When did this "longstanding agreement" originate?**

b. Were you a director of OMB at the time this longstanding agreement originated?

c. Is this "longstanding agreement" in writing? If yes, then please send a copy of it to the Committee. If no, then please reduce the agreement to writing and send it to the Committee.

d. Please send the Committee a list of all instances of the Treasury since March 29, 1996 alerting OMB to any ruling document that reasonably could be expected to have a significant economic impact.

e. How does the Treasury make a determination whether a rule is subject to E.O. 12866 review?

OMB designates and reviews "significant regulatory actions" as that term is defined in section 3(f) of Executive Order 12866. These include rules with an annual economic impact greater than $100 million, rules that raise novel legal and policy issues, rules that interfere with the actions of other agencies, and rules that materially impact the budgets of certain agency programs. For any rule that is covered by E.O. 12866 and reaches the $100 million threshold, which is commonly known as "economically significant" regulatory action, Treasury analyzes the costs and benefits of the proposed rule and its alternatives, consistent with OMB Circular A-4. For rules that do not reach the economic threshold, but that are designated by OMB as significant regulatory actions, Treasury adheres to the principles set forth in Executive Orders 12866 and 13563.

In regard to the IRS, I understand that pursuant to OMB guidance implementing E.O. 12866, and longstanding agreements between OMB and Treasury, only IRS legislative rules that constitute "significant regulatory actions" are subject to E.O. 12866 review. I further understand that Treasury is responsible for alerting OMB to any ruling document that reasonably could be expected to meet the definition of a significant or economically significant regulatory action under Executive Order 12866, or otherwise have a significant economic impact, which also would enable OMB to determine whether the ruling document is "major" within the meaning of the CRA. I understand that this longstanding agreement originated during the Reagan Administration. During my service as Director of OMB, I do not recall revisiting the agreement or studying the issue in detail.

Question 96:

Mark Mazur has informed the Committee that "there may be instances where the effects on the economy derive from the regulation itself [rather than from the statute]."

a. Please list those Treasury regulations promulgated since March 29, 1996 where the effects on the economy derive from the regulation itself.

b. Do you believe it is generally easy to tell whether a given regulation is the only permissible interpretation of the statute?

- **If yes, then presumably answering 5.a) above should be easy.**

- **If no, then do you think the default assumption should be when performing a CRA analysis is that the effects on the economy derive from the taxpayer obligations imposed by the regulation?**

I have not had an opportunity to study this issue in detail. If confirmed, I would be happy to discuss the issue further with the Committee.

Question 97:

a. **Do you agree that before a Treasury rule takes effect, the Treasury Department must submit to Congress a report, which among other things must state whether the rule is a major or non-major rule?**

b. **Do you agree that only the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget may make a finding that a rule is a major rule within the meaning of 5 USC section 804(2)?**

c. **Assume that Treasury Rule X would have an effect on the economy of $100 million or more. Also assume that the Treasury Department never submits Rule X to OIRA for review.**

   i. **Would Rule X be a major or non-major rule?**

   ii. **Would the Treasury Department be complying with both the letter and the spirit of the CRA by reporting to Congress that Rule X is non-major?**

   iii. **If you were the Secretary of the Treasury and this situation arose, would you tell Congress that Rule X was non-major?**

The Congressional Review Act ("CRA") states that, "[b]efore a rule can take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing . . . a concise general statement relating to the rule, including whether it is a major rule." The CRA further defines the term "major rule" to mean any rule that the Administrator of the Office of Information and Regulatory Affairs finds has resulted (or is likely to result) in one of three specified criteria being satisfied. I do not believe it would be appropriate to speculate about hypothetical situations. If confirmed, I would comply with the CRA.

Question 98:

You wrote: "OIRA's centralized review process enables a president to co-ordinate a government-wide regulatory policy and receive a relatively dispassionate and analytical 'second opinion' on the output of Executive Branch agencies operating in his name."

Do you believe OIRA's centralized review process includes review of Treasury tax regulations? Should it so include?

I generally support the centralized review of Executive Branch regulations by the Office of Information and Regulatory Affairs (OIRA). I understand that Treasury notifies OIRA regarding every proposed and final Treasury rule published in the Federal Register. I also understand, however, that pursuant to longstanding practice across several Administrations, IRS rules generally are not subject to E.O. 12866 review. During my service as Director of OMB, I do not recall revisiting the agreement or studying the issue in detail. If confirmed, I would be happy to discuss the issue further with the Committee.

Question 99:

You wrote: "[T]hose who have studied the issue from the perspective of the president, including liberal and conservative Democrats, have uniformly concluded that the president must have a centralized mechanism to review regulations as an important tool to implement policy."

Must this centralized mechanism also review Treasury regulations, including tax regulations? Please explain your answer.

Please see my answer to Question 98.

Question 100:

You wrote: "It is important that the new president reaffirm the legitimacy and importance of centralized review ..."

Do you think it is important that the new Treasury Secretary reaffirm the legitimacy and importance of centralized review?

Please see my answer to Question 98.

Question 101:

Will you here reaffirm the legitimacy and importance of centralized review by assuring the Committee that Treasury/IRS will submit all new tax regulations to OIRA for centralized review?

Please see my answer to Question 98.

Question 102:

Title I of the Dodd-Frank Act established the Financial Stability Oversight Council (FSOC) which is supposed to be a watchdog over possible threats to stability of the financial system—also known as "systemic risk." Please provide me with your definition of

"systemic risk" and identify specific metrics you would use to determine whether, when, and where there might exist systemic risks and threats to financial stability. Please, also, give me your views about possible current risks to financial system stability from:

a. The tri-party repo market;

b. Money market mutual funds;

c. The Government Sponsored Enterprises (GSEs), Fannie Mae and Freddie Mac;

d. Competitive currency devaluations and any roles played by China's managed peg and by outsized quantitative easing policies pursued by the Bank of Japan and by the Federal Reserve;

e. Federal Reserve quantitative easing;

f. The "fairly significant pattern of reaching-for-yield behavior emerging in corporate credit" as explained in Fed Governor Jeremy C. Stein's February 7, 2013 speech at a symposium sponsored by the Federal Reserve Bank of St. Louis;

g. Federal debt.

The Dodd-Frank Act frames systemic risk in terms of threats to the stability of the U.S. financial system. Congress created the FSOC to identify risks to U.S. financial stability, promote market discipline, and respond to emerging threats to the stability of the U.S. financial system. The Dodd-Frank Act lists a number of non-exclusive factors that the Council must consider before determining that a nonbank financial company could pose a threat to U.S. financial stability and should be designated for Federal Reserve supervision and enhanced prudential standards. I would expect to focus on these types of risks in assessing threats to financial stability.

The Council's 2012 annual report highlights many of the risks noted in your question, including risks associated with the tri-party repo market, money market mutual funds, housing finance, the low interest rate environment, and the federal debt. If confirmed, I look forward to working with the Congress on these and other important issues.

Question 103:

Of the options for money market mutual fund reform options considered by the FSOC, are there particular reforms that you favor.

The financial crisis demonstrated that MMFs are susceptible to runs and can be a source of financial instability with serious implications for broader financial markets and the economy. While MMFs are more resilient today, more reform is needed to protect investors and improve the stability of the industry. I do not want to prejudge the outcome of the comment process on the FSOC recommendations. If confirmed, I look forward to learning more about the comments that FSOC received on these recommendations and engaging with FSOC members.

Question 104:

What do you feel should be done, if anything, to reform activities in the tri-party repo market?

I have not yet had an opportunity to study this issue in detail. However, my understanding is that the Treasury believes that the tri-party repo market remains a major area of concern. The Financial Stability Oversight Council's last two annual reports have stressed needed reforms to this market, particularly the elimination of most intraday credit exposure between the clearing banks and dealers. Without addressing this and other structural weaknesses in this market, the tri-party repo market is vulnerable to fire-sale conditions, as we witnessed in the financial crisis. The Federal Reserve Bank of New York is spearheading efforts to get the industry to implement necessary reforms in a timely fashion and is coordinating directly with regulators and through the FSOC. If confirmed, I would look forward to working with the Council to continue its work on this important issue.

Question 105:

Which reform option, if any, from those laid out by Treasury in February 2011 is closest to the reforms you would support for the GSEs, Fannie and Freddie?

The Administration is committed to a sustainable housing finance system that does not allow the GSEs to return to their previous form, where private gains were allowed at the expense of taxpayer losses. Any future system must also protect taxpayers and financial stability, promote private capital taking on more mortgage credit risk in a responsible way, and meet the needs of our nation's rental population. At the same time, we must preserve access to credit for American families, including long-term fixed rate mortgages, and better target government support for low- and moderate-income Americans, including the development of affordable rental options. Our housing finance system must also include stronger and clearer consumer protections and must establish a level playing field for all participating institutions.

Question 106:

If confirmed as Treasury Secretary, when would you begin to actively pursue reforms to the GSEs, Fannie and Freddie and when would you expect to have arrived at your most preferred reform?

It is critically important that we move ahead with reforming the housing finance market and winding down Fannie Mae and Freddie Mac. Creating a more stable and sustainable housing finance market is an important priority of this Administration, and, if confirmed, I would look forward to working on this issue with Congress.

Question 107:

While the Federal Reserve (Fed) has been buying tens of billions of long-term Treasuries every month to push their rates down, Treasury has been busy lengthening the average

maturity of federal debt. According to Fed Chairman Bernanke, such action by Treasury offsets some of the benefits of the Fed's policies. If you believe the Fed's story line, then you could conclude that Treasury is acting against Fed policy, which means Treasury is acting against a job-creation policy which it could reinforce, instead, if it wanted. Or, you may conclude that Treasury just takes the Fed's policies as given and wants to borrow more to capitalize on the low long-term rates that Fed policy artificially creates, and that job creation isn't a mandate of Treasury, so jobs are not the goal of Treasury and its debt management policy.

a. **The Fed's policy of buying up tens of billions of long-term Treasuries each month, and prior quantitative easing measures, including the so-called "operation twist," to push long-term interest rates down is a purported effort to ultimately help job creation. Do you agree that the Fed's quantitative easing strategy of attempting to lower longer-term interest rates has led to and will lead to job creation relative to a setting in which there was no quantitative easing in place?**

   The Treasury and the Federal Reserve are separate entities with different mandates. Treasury is focused on financing the government at the lowest cost over time and does not coordinate its borrowing strategy with the Federal Reserve's monetary policy actions. Treasury has had a long-standing policy through Administrations of both parties to refrain from commenting on independent monetary policy decisions by the Federal Reserve.

b. **Do you believe that lower longer-term interest rates, including rates on longer-Term Treasury securities, can help boost economic activity, including job creation? If so, why or why not?**

   Lower longer-term interest rates, including rates on longer-term Treasuries, can potentially help support economic growth and job creation through several channels. For example, a key way this is done is by lowering the cost that homeowners must pay on their mortgages. As families are able to refinance their mortgages at lower interest rates, they will be able to keep more of their hard-earned money, which supports consumer spending, saving, investment, and job creation.

c. **Do you agree with Fed Chairman Bernanke the Treasury's strategy of lengthening the average maturity of outstanding federal debt is "an issue" and offsets some of the benefits of the Fed's policies?**

   Treasury and the Federal Reserve are separate entities with different mandates. Treasury's goal is to finance the government at the lowest cost over time, while the Federal Reserve attempts to maintain price stability and maximum employment. Given the low level of interest rates at present, it does not appear that Treasury's borrowing activity is putting upward pressure on interest rates.

Question 108:

Do you advocate issuance of Treasury securities at negative yields? If so, how soon would you, if confirmed as Treasury Secretary, move to provide such issuance?

My understanding is that last year, Treasury announced that it was in the process of building the operational capability to allow negative rate bidding in Treasury bill auctions. Negative yields on Treasury securities are something for which many market participants had never planned. In my view, any decision to allow Treasury securities to be issued at negative yields would have to be predicated on the market's ability to purchase and trade these securities in an orderly and efficient manner. If confirmed, I would be prepared to assess the need to issue Treasury securities at negative rates if market conditions warrant.

Question 109:

Do you advocate issuance of "floating rate notes" by Treasury? If so, how soon would you, if confirmed as Treasury Secretary, move to provide such issuance and what reference rate would you advocate using? Please, also, discuss what you feel are risks and potential benefits to Treasury issuance of floating rate notes.

In August 2012, Treasury announced plans to develop a floating rate note (FRN) program to complement its existing suite of securities and to help achieve its objective of financing the government at the lowest cost over time. I believe it is prudent for Treasury to evaluate the tools that it has to achieve those goals. Currently, many market participants are searching for a short duration, stable-value product and floating rate notes would meet this demand and allow Treasury to further extend the weighted average maturity of its portfolio. As I understand it, Treasury is developing the optimal issuance structure for FRNs, has not reached a final decision regarding a reference rate, and currently estimates the first FRN auction to be about a year away.

Question 110:

Concern has been expressed about the impact of the Dodd-Frank and the Basel III reforms on bank capital on the financial system and our economy broadly. I am concerned that failure to consider and balance the combined impact of all of the regulatory changes will have real consequences on our economy beyond just the obvious constraints on bank lending and the availability of credit.

a. **Do you share these concerns?**

b. **Given the magnitude of all these rules and their impacts on lenders and investors of all sizes, do you believe that it will be prudent for the FSOC to examine the cumulative impact of ALL these reforms, and report to Congress on what this means for credit availability and economic growth?**

I think we need to be attentive to the benefits and burdens of all regulations, particularly in an area as important to the economy as financial services. For example, the crisis revealed that

banking institutions need more and better capital to help reduce the probability of a future financial crisis. It is important that Treasury continues its dialogue with the banking regulators as they work towards implementing Basel III capital standards and the Dodd-Frank Act, recognizing that we need strong standards that reflect lessons learned from the financial crisis while avoiding the imposition of undue costs. If confirmed, I would continue the important work of coordinating closely with the regulatory agencies, including Treasury's engagement with the banking regulators and the FSOC's efforts to facilitate information sharing and coordination among its member agencies.

Question 111:

In a recent interview, former Treasury Secretary Geithner told the Wall Street Journal that when another major financial crisis comes, "[Y]ou're going to have to do what you need to do to try to reduce the risk of damage and contagion on the financial system." Do you share Secretary Geithner's belief that the government has to "do whatever it takes" during a crisis? If so, do you believe that a Treasury Secretary who responds to severe financial crisis should be bound by the limits of law?

I share the belief of Secretary Geithner that in a period of crisis one must act boldly and swiftly, but, of course, within the limits of the law, to protect taxpayers and the stability of the financial system.

Question 112:

Do you believe that the Dodd-Frank Act ends too-big-to-fail?

The reforms put in place with the Dodd-Frank Act provide regulators with critical tools and authorities that we lacked before the crisis to resolve large financial firms whose failure would have serious adverse effects on financial stability. I understand that the emergency resolution authority for failing firms created under Title II prohibits any bailout, while protecting taxpayers and the U.S. economy. For any financial firm that is placed into receivership under this Dodd-Frank emergency resolution authority, management and directors responsible for the failed condition of the firm will be removed and shareholders will be wiped out.

In addition, the largest firms have written "living wills" to provide a roadmap to facilitate rapid and orderly resolution in the event of bankruptcy. In addition to resolution, large, complex financial institutions will now be required to hold significantly higher levels of capital. Leverage is significantly lower, reliance on short term funding is lower, and liquidity positions have already improved such that large firms are less vulnerable in the event of a downturn.

Question 113:

Do you believe that because of financial "reforms" implemented by the Dodd-Frank Act there will be no more taxpayer financed bailouts?

I believe the reforms put in place by Dodd-Frank which are described in Question 112 provide mechanisms to avoid future taxpayer financed bailouts.

Question 114:

Richmond Federal Reserve Bank President Jeffrey Lacker recently suggested that the next big failed financial firm should go through bankruptcy without taxpayer funding. Do you agree with Mr. Lacker?

It is hard to predict the contours of the next financial crisis or the catalyst for the failure of a particular firm. The Dodd-Frank Act preserves the ability of a firm that faces failure to enter bankruptcy and provides a new alternative to resolve a failing firm whose failure would have serious adverse effects on U.S. financial stability, in an orderly fashion, without cost to the taxpayer, or impact on the broader financial system. These new authorities and tools that we lacked before the crisis will provide even greater flexibility to mitigate risk to the financial system and the economy.

Question 115:

Former Treasury Secretary Geithner has stated that "you won't be able to make a judgment about what's systemic and what's not until you know the nature of the shock." Do you agree with Former Secretary Geithner's recognition that Dodd-Frank's infrastructure, such as the FSOC, for ferreting out systemic risk is not going to be effective anyway? If so, what changes to Dodd-Frank do you recommend should be made to better reflect reality?

I agree with Secretary Geithner that financial shocks are sometimes difficult to predict, particularly if they are unprecedented or emanate from less-regulated or opaque parts of the financial system. The Dodd-Frank Act put in place measures to make our financial system more resilient to unforeseen shocks, and created a new body, the FSOC, to monitor risks to financial stability across the system. It also created tools for authorities to address shocks should they occur. Because the nature of risks in our financial system continually evolves, it is important that we continue the work of establishing a robust regulatory framework that protects taxpayers and the stability of the financial system.

Question 116:

The Secretary of Treasury, in his capacity as chairman of the FSOC, has an important coordinating role to play in the financial regulatory process both domestically and internationally. Unfortunately, since the passage of Dodd-Frank, inter-agency regulatory conflicts have been allowed to fester and international tensions over regulatory reform have mounted. If confirmed, what specific steps would you take to foster effective inter-agency rulemaking and to smooth international regulatory relations?

The Dodd-Frank Act encourages interagency coordination and information sharing, including through the establishment of the Council. The Council has played a crucial role in fostering both

formal and informal coordination among regulatory agencies. I expect that the Council will continue to serve as a forum for agencies to discuss important issues regarding financial markets and regulation. The implementation of the Dodd-Frank Act has involved unprecedented cooperation between agencies in rule writing and other efforts. If confirmed, as Chair of the FSOC, I would continue the Council's important work in facilitating interagency coordination.

Question 117:

The FSOC has been unresponsive to inquiries I have made to its voting members, and has, overall, been nontransparent in its operations. Indeed, the title of a September 2012 Report by the United States Government Accountability Office is titled "New Council and Research Office Should Strengthen the Accountability and Transparency of Their Decisions," where Research Office is reference to the unaccountable Office of Financial Research (OFR). If confirmed as Treasury Secretary, what concrete steps will you take to substantially improve the accountability and transparency of the FSOC and OFR and to substantially improve responsiveness of the FSOC and OFR to requests for information by Members of Congress?

My understanding is that the Council has consistently maintained transparency with regard to the implementation of its specific authorities. For example, the Council provides notices of meetings, publishes the minutes of its meetings, and has issued several rulemakings and reports for public comment, including on money market mutual fund reform and the criteria for designating nonbank financial companies for Federal Reserve supervision and enhanced prudential standards. Moreover, the Council's annual report, which is provided to Congress and made available to the public online, provides a clear public record of its collective judgments, through its recommendations and assessments of threats to financial stability.

One of the central missions of the Council is to identify, monitor, and respond to emerging threats to financial stability. To fulfill this mission, I expect that the Council frequently discusses market developments and market functioning involving many companies and financial sectors. I would expect that these discussions are often preliminary and frequently involve market-sensitive and confidential supervisory information. I believe this is necessary to support the Council's ongoing work in fostering open dialogue, constructive coordination, and information sharing across it members.

If confirmed as Treasury Secretary, I will work to foster the Council's continued transparency, to the extent feasible given the sensitivities outlined above.

Question 118:

If confirmed as Treasury Secretary, will you recommend that the President dissolve the President's Working Group on Financial Markets this year? If not, why not?

I have not had an opportunity to fully develop a position on any remaining responsibilities of the President's Working Group on Financial Markets, but if confirmed, I will consider this issue.

Question 119:

Housing is a significant portion of the nation's gross domestic product. Both Treasury and the Fed have commented that tighter lending standards are preventing creditworthy borrowers from buying homes, and this is slowing the revival in the housing sector and slowing the economic recovery.

One reason for the lack of mortgage availability is that the private capital has been largely absent from funding mortgages since 2008, while the federal government through the GSEs, FHA, VA and USDA support over 85 percent of the nation's newly originated mortgages.

Do you believe that attracting private capital for mortgage backed securitizations is important to the recovery of our housing market? If so, as Secretary, how will you work to attract private capital back into the mortgage finance market and shrink the government footprint?

Yes, attracting private capital and responsibly shrinking the government's footprint in housing finance over time are critical to the long-term stability of our housing market and to protecting taxpayer interests. However, we must balance policy actions that reduce the government's footprint against the need to preserve access to mortgages for creditworthy borrowers. In addition to winding down the GSEs, we must make it more attractive for private capital to take on more mortgage credit risk in a responsible manner. Many rules are being developed and implemented that will help give market participants clarity, such as the Qualified Mortgage rule. However, much work remains to be done. If confirmed, I look forward to supporting clear and transparent rules around housing finance.

Question 120:

The current level of federal debt held by the public is 76% of GDP, more than double the 37% level it averaged during the 50 years between 1957 and 2007. Is the current debt level too high? If it is, what is an acceptable and sustainable level and how long should we take to get there?

A key indicator of fiscal sustainability is a stable debt-to-GDP ratio, which stands at 72.5 percent at the end of FY 2012, for federal debt held by the public. A stable debt-to-GDP ratio assures that the debt is no longer growing relative to the size of the economy and that non-interest spending is aligned with revenues. The deficit reduction measures the President proposed in his FY 2013 Budget, together with the deficit reduction agreements reached with Congress since 2011, would stabilize the debt as a share of the economy before the end of this decade. Though there is still more work to do, this is an important benchmark for stabilizing our fiscal outlook.

Question 121:

On August 1, 2012, the House Energy and Commerce Committee released a report stating that the Office of Management and Budget analyst Kelly Colyar suggested that taxpayers

would lose only $141 million if the company were immediately liquidated, as opposed to $385 million if the government restructured the loan agreement and released more money to Solyndra. It was also reported that career OMB staff members circulated a series of e-mails emphasizing the risks of restructuring the loan.

a. **Referring to section VII of the House Energy and Commerce Committee's report titled The Solyndra Failure, were you ever aware of Mr. Colyar's and other career OMB staff member warnings?**

b. **Were you ever notified by OMB analysts that a refinancing plan that favored private investors might violate the law?**

c. **Were you aware at the time of the decision to lend Solyndra money that its largest investors were funds linked to George Kaiser, a fundraiser for the president?**

d. **Did you ever speak with George Kaiser about Solyndra and the Department of Energy's loan guarantee program? If so, describe the discussion.**

e. **Did you intervene in any way to prevent the refinancing plan based on any information that you received about Solyndra's deteriorating financial condition?**

In September 2011, OMB Deputy Director for Management Jeffrey Zients testified before the House Energy and Commerce Committee on this subject. He stated that, "OMB engages in general oversight of the programs being executed by federal agencies." He described how, in that role, OMB was "asking tough questions and pressure testing assumptions, respectful of DOE's statutory authority to make final programmatic decisions on Title XVII loan guarantees." He discussed OMB's role under the Federal Credit Reform Act of 1990, and how OMB reviews and approves credit subsidy cost estimates for all loans and loan guarantee programs, including the DOE Loan Guarantee Program. Ultimately, Mr. Zients testified that OMB staff were comfortable with the final credit subsidy score for this project. Mr. Zients' testimony is consistent with my recollection.

Question 122:

During a recent Senate hearing with major bank regulators, an observation was made that large banks trade below their book value and a conjecture was made that the reason is either that "nobody believes that the banks' books are honest" or that nobody believes that the banks are really manageable. Do you agree with the observation and the conjecture?

There are a range of factors that impact the valuations of large banks' shares, but I do not want to speculate about any specific factor.

Question 123:

The Treasury Department has no set of coherent policies regarding Department use of social media. As things stand, use of such media is loosely governed by Office of

Management and Budget memoranda, most of which apply to privacy issues. The Treasury Department seems not to do much, if any, monitoring of public postings on its social media outlets.

For example, on its Facebook page, private telephone numbers and the like can be viewed among the public commentary.

Will you, if confirmed as Treasury Secretary, develop and provide to Congress policies and procedures governing Treasury's use of social media outlets?

The Office of Management and Budget (OMB) has issued government-wide guidance regarding the appropriate use of social media. Moreover, my understanding is that Treasury's Office of Public Affairs, in consultation with Treasury's Office of General Counsel, periodically provides guidance on the use of social media to Treasury staff. If confirmed, I would commit to having the Office of Public Affairs continue to inform Treasury staff of these guidelines and would provide information on Treasury policies and procedures regarding social media to Congress upon request.

Question 124:

Last year, Treasury displayed on numerous social media outlets arguments and an infographic (titled "Penny Wise and Pound Foolish") identifying funding levels for the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) specified in legislation pending before the Congress. The arguments and infographic represent, in my view, lobbying activities by Treasury, posted before the public on social media sites, against legislation pending before the Congress. The lobbying was with respect to funding levels for the SEC and CFTC, both of which are independent of Treasury.

a. **Do you support Treasury's use of appropriated funds to lobby against legislation pending before the Congress with respect to funding levels of regulatory bodies that are independent of Treasury?**

b. **Would you, if confirmed as Treasury Secretary, institute any policies and procedures governing Treasury's use of appropriated funds that would prohibit the type of activity identified above?**

While I was not at Treasury last year, my understanding is that Treasury counsel has reviewed the infographic and has concluded that it is consistent with the law. According to a letter sent to Senator Hatch, counsel found that the infographic does not contain "a clear explicit appeal to the public to contact Members of Congress." As a result, counsel found that the infographic does not violate the longstanding bright-line rule in determining whether an agency has violated the prohibition against grassroots lobbying established by the Government Accountability Office (GAO).

If confirmed, I would be committed to using social media to help keep the public informed of key policy issues relevant to Treasury, while continuing to ensure that all social media activities conducted by the Treasury are lawful.

Question 125:

If confirmed as Treasury Secretary, would you argue against, or attempt to change or influence, any decisions made by the Federal Housing Finance Agency? If so, what would you attempt to change or influence, and why?

The Federal Housing Finance Agency (FHFA) is an independent regulator of Fannie Mae and Freddie Mac (the GSEs). FHFA is also conservator of the GSEs. As an independent regulator, FHFA is responsible for making its own decisions.

Question 126:

Do you support use of taxpayer funds to engage in further principal reduction mortgage modification schemes? If so, and if confirmed as Treasury secretary, what principle reduction measures will you propose or advocate?

I support using principal reduction on a targeted basis where it makes economic sense to do so. As part of a payment-reducing loan modification, as in Treasury's Home Affordable Modification Program, principal reduction can help distressed underwater borrowers avoid preventable foreclosures and help housing markets to recover.

Question 127:

Do you support the "Responsible Homeowner Refinancing Act of 2012" (S.3085)?

I believe that creating more opportunities for homeowners to refinance their mortgages is very important for the continued recovery of our housing market as well as to the broader economic recovery. Refinancing at today's rates can help save an average middle class family $3,000 a year and can get underwater homeowners on the path to restoring equity in their homes more quickly. The "Responsible Homeowner Refinancing Act of 2012 helps lower barriers for borrowers to refinance. If confirmed, I would support this bill and look forward to working with Congress and others to help find solutions that will make it easier for families to take advantage of the current low-rate environment.

Question 128:

Internal Use Software: Over 16 years ago, the Treasury issued proposed regulations on the definition of internal-use software (IUS). In 2001, the Treasury issued final regulations regarding the definition of internal-use software. Announcement 2004-9 may have confused matters as to whether those final regulations applied in the IUS context. Since 2004, the IRS has put every year on its priority-guidance plan issuing new proposed regulations concerning the definition of internal-use software. According to one US district

court, taxpayers "may rely on the 'internal use software' test from the 2001 Final Regulations at 26 C.F.R. § 1.41-4(c)(6)(vi)." FedEx Corp. v. United States (W.D. Tenn., June 9, 2009).

a. **Has the IRS acquiesced to the FedEx decision?**

   No.

b. **There may be final regulations that apply in the IUS area, or there may not be. FedEx may apply to just the western district of Tennessee, or it may apply throughout the United States. There may be proposed regulations coming out, or there may not be. Could you assure me that, in an effort to ease administration for all parties concerned, you, if you are approved as Secretary of the Treasury, will attempt to clarify this area of the law, and that you will report back to me in 2013 as to your clarification?**

   If confirmed, I will support Treasury and the IRS's efforts to issue clarifying guidance concerning internal use software.

Question 129:

In responding to questions from Senator Burr, you seemed to raise a distinction between conversations with the President and briefings. I am concerned by this exchange because it suggests that in responding to questions from Members of Congress, you might respond to a very specific "letter" of a question rather addressing what is clearly recognizable as the "spirit" of the question.

When you received questions from myself and other Members of Congress, will you seek to be fully responsive, and not take efforts to limit the information contained in your response?

I strongly support transparency in government. If confirmed, I would seek to foster an open and constructive relationship with the Committee, and I would do my best to respond to requests in a forthcoming manner.

Question 130:

On August 20th, 2012, the House Oversight Committee asked for "all documents and communications between IRS employees and employees of the White House, Executive Office of the President, or any other federal agency or department referring or relating to the proposed IRS rule or final IRS rule between March 23, 2010, and August 17, 2012." The Chairman and Committee staff have asked on numerous occasions for an update on this request.

Has IRS and/or Treasury compiled the documents and communications referenced in the August 20th letter? If the documents and communications have not yet been fully compiled,

have IRS and/or Treasury begun compiling the documents and communications referenced in that letter? If so, do you have an estimate of when these documents and communications will be produced to the Committees?

I believe in openness and transparency, and I also understand the need for vigorous oversight. I understand that Treasury has been cooperating with the Committee since August 2012 on these requests. I also understand that Treasury officials and attorneys have briefed Committee staff on the legal analysis behind these regulations, and that Treasury has produced hundreds of pages of materials responsive to the Committee's requests. If confirmed I would work with Congress, and all of Treasury's oversight bodies, so they are able to conduct their important oversight work.

Senator Rockefeller

Question 1:

The National Taxpayer Advocate's report to Congress raised specific questions about the high audit rate for claims on the adoption tax credit. According to the Advocate's report, the IRS, partly using income-based rules, selected *69 percent* of tax returns claiming the credit during the 2012 filing season for audit, compared with one percent of returns overall. These audits imposed significant burden on the affected taxpayers for several reasons, most notably because the median refund claim constituted nearly one-quarter of the taxpayers' adjusted gross income for the year, and the audits on average took over four months. Despite the burden, the payoff was relatively small. The IRS denied only about 10 percent of the amounts claimed in tax year 2010, and as of mid-November had denied only about 1.5 percent of the amounts claimed in tax year 2011. The excessive focus on returns claiming the adoption credit burdened many taxpayers according to the report, and it could have the effect of negating Congress's intent to encourage adoptions.

How will you direct the IRS to reform its treatment of the adoption tax credit?

I am not yet familiar with the details of this issue, but, if confirmed, I will carefully consider the National Taxpayer Advocate's recommendations for revising the IRS's compliance strategy for the adoption tax credit. If confirmed, I will instruct the IRS to work with stakeholders to determine which recommendations, if any, can be implemented in a way that balances the goals of reducing burdens on compliant taxpayers and satisfying Congressional intent with the IRS's responsibility to deny improper claims.

Question 2:

The Adoption Tax Credit was only refundable to tax years 2010 and 2011. Preliminary data suggests that making the adoption tax credit refundable had a real impact on the number of middle to lower income families who were able to benefit from the adoption tax credit. Can you provide greater detail on the extent to which families with middle to low AGIs are benefitting from the adoption tax credit?

According to published IRS statistics, for tax year 2010 (the latest year for which IRS has published statistics) over 97,000 families received $1.2 billion in adoption tax credits. The number of families receiving the credit grew by 20 percent between 2009 and 2010, and the amount of credit claimed more than quadrupled. In 2009, about 30 percent of families claiming the credit had AGI below $50,000, and they claimed about 10 percent of the total amount of credit claimed. In 2010, nearly 50 percent of families claiming the credit had AGI below $50,000, and they claimed about half of the total amount of credit claimed.

Question 3:

How can the Adoption Tax Credit be improved to meet its original goal of 1996 to promote adoptions of children from the U.S. foster care system?

In 2012, Congress took an important step by making certain adoption credit provisions permanent, providing certainty to taxpayers who are planning adoptions. The American Taxpayer Relief Act of 2012 made permanent the changes to the credit that were enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001. I look forward to working with the Committee to ensure that the credit meets its goal of encouraging adoptions of foster children.

Senator Wyden

Question 1:

Most Americans don't fully appreciate the extent to which tax policy directs energy policy in this country, but it most certainly does to a very great extent – whether it's production tax credits for wind energy or expensing drilling expenses for oil and gas or tax credits to help homeowners save energy.

Beyond express tax credits and other preferences, our tax code has long enabled Master Limited Partnerships (MLPs) and Real Estate Investment Trusts (REITs) to serve as successful investment structures in the energy sector, especially for the promotion of oil, gas and other traditional energy sources.

Because I believe that the Code should be more or less resource and technology neutral when it comes to the development of our sources of energy, I am very interested in exploring the expansion of proven investment structures like MLPs and REITs into the clean energy space. With such an expansion, these tools can help promote growth, move renewables closer to subsidy independence, and vastly broaden the base of investors in America's energy economy.

While direct government investment in the energy sector has proven beneficial in recent years, as we work mightily to get our nation's fiscal house in order, rather than focusing solely on increasing government funding—whether through tax expenditures or otherwise—it makes imminent sense to consider expanding proven tools like MLPs and REITs into the renewable energy space and thereby driving private investment and the innovation that comes with it toward cleaner sources of energy.

The center of action for REITs has been the Treasury Department. A series of recent IRS private letter rulings have allowed REIT investment in a range of energy and infrastructure projects, including natural gas pipelines and terminals, electric power transmission lines, railroad tracks, cell towers and even LED-lit billboards. But REITs have not yet been extended to renewable energy.

That said, most agree that REITs could be opened for renewable energy investment through executive action. Executive action would require the Department of the Treasury to clarify—through project-specific private letter rulings or, preferably, a broadly applicable revenue ruling—that renewable power generation equipment qualifies as real property under the tax code and that income from these assets, including from the sale of electricity, is considered REIT-eligible income.

With that background, would you support Treasury taking executive action to expand REITs for investment in renewable energy? Or do you believe it would be inappropriate for the Department to take those steps without legislative direction?

I share your commitment to expanding clean energy investments. However, I am not yet familiar enough with the issue to know whether the measures you describe can be accomplished through administrative action, or whether they would require a statutory change. If confirmed, I would be happy to work with you and the Committee on this important issue.

Question 2:

Mr. Lew, the President's "Framework for Business Tax Reform" (a joint report by The White House and the Treasury Department issued in February 2012), makes various rccommendations to help "strengthen the international tax system to encourage domestic investment." In that section, the report states that "many companies reinvest, rather than repatriate, a significant portion of their income overseas and as a result may never face U.S. taxes on much of that income." I would take that a step further and say that many companies opt to leave earnings offshore even without reinvesting it, in order to avoid paying corporate income tax in the U.S. on such earnings. For that reason, among others, I have long advocated repealing deferral entirely to eliminate the abusive profit-shifting that mainly works to reduce taxes on the foreign profits of some U.S. multinationals, while also increasing the budget deficit, to the comparative tax disadvantage of companies investing their earnings back in the United States.

My question, however, relates to those companies, and there are certainly some with operations in my state and elsewhere around the country, that currently choose to reinvest substantial sums of overseas income in the U.S. These companies, often due to core operating principles, routinely repatriate foreign earnings, pay tax in the U.S. and invest in plant and equipment and other needs to help create jobs and grow their businesses. The calculation of benefit of the one-time low rate on repatriation of foreign earnings enacted in 2004 worked against these companies that are not holding cash abroad in anticipation of either another temporary rate reduction or the enactment of laws moving toward a territorial system. Current U.S. tax policy favors their competitors who defer U.S. taxes on non-U.S. earnings as long as possible and either have received or may receive a significant tax benefit when (or if) they finally repatriate their non-U.S. earnings.

I would like to get your ideas and the ideas of others in the Treasury Department and elsewhere in the Administration on what to do for these companies. Could (or should) they be rewarded somehow for these practices? How do we ensure that any transitional relief provided on unrepatriated earnings doesn't reward deferral and penalize those who repatriated earnings sooner, paid maximum U.S. tax, and invested in the U.S.? I'd appreciate hearing any thoughts you have on it now and having the opportunity to spend more time on this once you are confirmed.

As stated in the President's Framework for Business Tax Reform, the President is committed to reform that will support the competitiveness of American businesses and increase incentives to invest and hire in the United States. If confirmed, I would work with the Committee to enact tax reform, and would welcome a dialogue on the measures that would best strengthen the international tax system in a manner consistent with the principles and goals set forth in the

President's Framework. The tax treatment of earnings accumulated overseas should be considered as part of this dialogue.

Question 3:

The federal government loses both individual and corporate income tax revenue from the shifting of profits and income to foreign countries. While the revenue losses from this tax avoidance and evasion are difficult to estimate, the Senate Subcommittee on Investigations found that the annual cost of offshore tax abuses could be as much as $100 billion per year.

According to an Economic Policy Institute analysis, much of the international tax reduction from individuals results from evasion and has been estimated to range from $40 billion to $70 billion per year.

Corporate tax reductions resulting from profit-shifting have also been estimated in various ways, and those estimates range from as little as $10 billion per year to as much as $60 billion per year.

Tax avoidance through profit-shifting by U.S. corporations and the abuse of loopholes by individuals to avoid (and perhaps evade) appropriate taxation is a serious problem that costs the U.S. Treasury tens of billions of dollars each year in lost revenue.

The magnitude of these abuses demonstrates very clearly a number of problems with our current tax regime and calls out for comprehensive reform. Moreover, as we continue conversations about how to reduce our current budget deficits, with $50-100 billion lost each year (up to potentially $1 trillion over 10 years) as a consequence of abuses of the international tax system, it is imperative that we take firm steps to curb these abuses through both executive action as currently permitted and legislative action as needed.

Last month, Treasury and the IRS issued comprehensive final regulations implementing the information reporting and withholding tax provisions commonly known as the Foreign Account Tax Compliance Act (FATCA). Enacted by Congress in 2010, these provisions target non-compliance by U.S. taxpayers using foreign accounts.

In your view, will these regulations lead to a meaningful reduction in the ability of individuals to evade taxes legally owed through the abuse of the international tax system? If so, do you know whether Treasury has quantified what that effect will be? Even so, what additional steps are being or should be taken—whether by executive or legislative action—to ensure better collection of the estimated $40-70 billion in revenue lost each year because of such individual abuses?

The Administration has made addressing the use of offshore accounts and entities to evade U.S. tax a high priority. FATCA was enacted by Congress, with bipartisan support, as part of the U.S. government's multi-pronged effort to combat the use of offshore accounts and entities to evade U.S. income tax. On January 17, 2013, the Treasury Department and the IRS issued comprehensive final regulations implementing the information reporting and withholding

provisions of FATCA. In addition, I understand that Treasury is working with other governments to ensure that all of the relevant financial institutions located in those jurisdictions will participate in FATCA reporting. FATCA will meaningfully address offshore tax evasion and avoidance as the information provided to the IRS under FATCA will help to ensure that U.S. persons properly pay tax on income earned through foreign accounts. Finally, I understand that over the last several years, the Treasury Department has revised the terms of a number of existing U.S. bilateral income tax treaties to provide for full information exchange between the tax authorities, has concluded treaties and tax information exchange agreements with new partner countries that create new information exchange relationships, and has been a leader in developing and promoting global adoption of the international standards for information exchange in tax matters.

While most of the lost revenue on the corporate side arises out of tax avoidance measures, such as the profit shifting that is encouraged by our current deferral regime, some part of the revenue lost derives from illegal abuse and evasion. What action can Treasury or the IRS take (or is either taking) to address the multi-billion dollar problem on the corporate side of the Code?

I understand the concern that certain current domestic laws and international standards allow multinational corporations to engage in profit shifting. The President's Framework for Business Tax Reform stated that income-shifting behavior by multinational corporations should be addressed through tax reform. I also understand that the United States supports the efforts of the Organization for Economic Cooperation and Development (OECD) to analyze these issues and is actively participating in the OECD's project to study these issues.

If confirmed, I look forward to working with the Committee to develop additional measures to combat corporate tax evasion by U.S. companies doing business outside of the United States.

Question 4:

Mr. Lew, as you know, America's voice at international financial institutions like the World Bank is represented by the Department of Treasury. I am very pleased that the Obama Administration has strongly championed equality for the LGBT community at home and abroad.

If confirmed, will you ensure that Treasury uses its weight and power to press for robust attention by the World Bank and similar institutions to attend to the health, social, education, and economic needs of the LGBT and other marginalized communities in foreign countries?

The Administration is committed to using U.S. leadership to advocate for human rights for all individuals, including members of the LGBT community and other marginalized communities in foreign countries. I believe that the World Bank and the other MDBs have an important role as a force for positive change on human rights matters. If confirmed, I will ensure that my staff encourages the MDBs to use their influence to uphold human rights in all countries in which they operate.

Question 5:

Mr. Lew, in the wake of the events of 9/11, the Congress established the Department of Homeland Security and moved Customs and Border Protection into it from Treasury, although Treasury maintains a role with respect to CBP's revenue functions. I'm concerned that CBP is increasingly disinterested in its revenue collection responsibility, particularly with respect to collecting anti-dumping and countervailing duties and the sureties associated with them.

If confirmed, can I get your commitment to assist with vigorous oversight of CBP to ensure that it takes seriously its responsibility with respect to the accurate collection of import duties?

Yes. If confirmed, I look forward to working together with the Committee and the Department of Homeland Security, including Customs and Border Protection, on issues related to the collection of import duties.

Senator Schumer

Question 1:

Perhaps no foreign policy challenge is as pressing as preventing Iran from acquiring a nuclear weapon. And make-no-mistake, I believe that when it comes to Iran, we should never take the military option off the table. But I have long argued that economic sanctions are the preferred and probably most effective way to choke Iran's nuclear ambitions. While sanctions are having a dramatic impact on the Iranian economy, they have yet to change Iran's nuclear ambitions. As you know, this Administration has the capability to tighten their crippling sanctions on Iran should they continue with their nuclear weapons program. Therefore, as the lead agency implementing U.S. economic sanctions, the Treasury Department is central to U.S. efforts to stop Iran's nuclear quest.

a. **Should the U.S. seek to strongly enhance the economic pressure on the regime in Tehran?**

The President has made it very clear that it is unacceptable for Iran to have a nuclear weapon, and that all options must be on the table to achieve this objective. In service of this objective, I understand that the Treasury Department has imposed increasingly robust economic and financial sanctions on Iran, including sanctions that restrict Iran's access to its foreign exchange reserves and impair its balance-of-payments position; that target entities and individuals involved in proliferation, terrorism, human rights abuses, and regional destabilization; that identify and expose Iranian efforts to deploy deceptive schemes to evade sanctions; and, that cut off from the U.S. financial system those who try to assist Iran in these efforts. I firmly believe that the imposition and implementation of robust economic sanctions is critically important to achieving the President's policy of denying Iran a nuclear weapon, and due to the intensive, collaborative efforts of the Congress and this Administration, as well as steps taken at our urging by partners around the world, the current sanctions regime on Iran is unprecedented in terms of scale, and scope and impact. If confirmed, I will support Treasury's efforts to implement fully existing sanctions and, as necessary, I would support additional actions that advance our shared objective of stopping Iran's nuclear ambitions.

b. **Do you think that sanctions can prevent Iran from developing nuclear weapons?**

I believe there is time and space to pursue a negotiated resolution that denies Iran a nuclear weapon, but that the window for such negotiations is narrowing. I see sanctions as critically important in demonstrating to the Iranian regime that it has a clear choice – it could enjoy the benefits of inclusion in the international financial system that could come from meeting its international obligations, or it will face increasingly powerful and painful sanctions by continuing to pursue a nuclear program.

c. **How would you define the role of the Treasury Department in stopping Iran's nuclear ambitions? Will you be prepared to share with this Committee your candid views about our requirements for action?**

I believe the Treasury Department performs a critical role in the Administration's efforts to halt Iran's nuclear ambitions by imposing increasingly powerful financial and economic pressure on Iran, thereby presenting the regime with the starkest choice possible. If confirmed, I am committed to sharing with Congress my views about potential additional actions as long as Iran continues to defy the international community over its nuclear program.

d. What additional sanctions do you believe are needed to succeed in our effort to thwart Iran's nuclear ambitions?

Please see my answer to Question 1(a).

Question 2:

Notwithstanding serious multinational efforts - led by the U.S. - some banks have ignored sanctions and continue to conduct business with designated Iranian entities. To date the Treasury Department has sanctioned just two non-Iranian foreign banks for continuing to conduct significant financial transactions with sanctioned banks. However, there is plenty of evidence that other non-Iranian owned or controlled banks have violated our laws with by conducting large transactions with sanctioned banks.

a. Will you implement punishing measures against foreign banks conducting business with Iran in clear violation of U.S. sanctions?

As a result of the efforts of the United States and its partners around the world, Iran today is more isolated than ever, especially on the economic front. Treasury has a strong record of aggressively pursuing Iran's financial networks and implementing sanctions against Iran and those individuals, entities, and banks that violate our sanctions. If confirmed, Treasury will continue to aggressively target additional individuals, entities, or banks that engage in sanctionable activity, wherever they may be.

b. One of the banks sanctioned by Treasury is Bank Kunlun of China. The bank's majority shareholder is China National Petroleum Corp. In your opinion should a parent company such as CNPC be held responsible for the actions of its subsidiaries when they violate U.S. sanctions on Iran?

I understand that Bank of Kunlun was sanctioned under the Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA), which provides for sanctions against foreign financial institutions that knowingly facilitate significant transactions or provide significant financial services for designated Iranian financial institutions. If confirmed, I will support Treasury's efforts to identify any sanctionable activity and ensure that Treasury continues to aggressively implement CISADA and all other sanctions against Iran.

Question 3:

In the ten years since China joined the World Trade Organization - a move that was intended by the global community to bring China's policies in line with global trade rules meant to ensure free and fair trade- from duty evasion to intellectual property theft, the Chinese government has proven that they have no interest in playing by the same rules as their global trading partners. Instead, China has single-mindedly flouted those rules to spur its own economy and export-oriented growth at the expense of its trading partners, most of all the United States. Of China's many offenses, perhaps there is no issue with a larger impact on the American economy than their systemic devaluation of their currency. In the 10 years since China joined the WTO the Economic Policy Institute estimates that 2.8 million American jobs were lost or displaced in manufacturing or other trade-related industries as a result of increased trade with China and the Chinese Government's manipulation of its currency - 161,000 of those in my state of New York alone.

This issue has been near and dear to my heart for many years. Senator Graham and I have been working to rectify this issue for 7 years now. Many members of this committee have dedicated themselves to the cause since that time as well - Chairman Baucus and Senators Grassley, Stabenow, Brown and Casey have all played integral roles in our China currency legislation, making it WTO consistent and finally moving it over the finish line here in the Senate last congress, but we cannot solve the problem of Chinese Currency Devaluation without the assistance of the Administration, and particular the Treasury Department. In November, the Office of International Affairs released its Semiannual Report on International Economic and Exchange Rate Policies which, as it has every six months for years now, calling China's renminbi "significantly undervalued." Yet again, the Treasury Department has stopped short of calling China a "currency manipulator." Treasury Secretary after Treasury Secretary has failed in their attempts to end this systemic devaluation of the renminbi.

a. **In your view what, if anything, distinguishes a country that has had "significantly devalued currency" for years from a country that systematically manipulates its currency?**

   If confirmed, I would take seriously my responsibility to prepare the Report to Congress on International Economic and Exchange Rate Policies, and would assess whether countries have manipulated the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustment or gaining unfair competitive advantage in international trade based on the evidence then available.

b. **A 15% appreciation in the renminbi over four years, while helpful, is not nearly enough to rectify this problem - more action certainly must be taken to stop sacrificing American jobs to unfair unscrupulous trading partners. Will you deem China a currency manipulator, and if not what actions that are different than your predecessors will you take to end Chinese currency devaluation?**

I understand that China's current account surplus has fallen from 10 percent of GDP at the peak to under 3 percent today. It also is my understanding that the renminbi has appreciated 40 percent against the dollar on a real, inflation-adjusted basis since June 2005.

While some progress has been made, I believe more is needed. If confirmed, I would assess whether countries have manipulated the rate of exchange between their currency and the U.S. dollar for purposes of preventing effective balance of payments adjustment or gaining unfair competitive advantage in international trade based on the evidence then available. I would work actively in the Strategic and Economic Dialogue, the G-20, and the IMF to press China to move more rapidly to a market-determined exchange rate and to not target exchange rates for competitive purposes, as China recently committed to do in the G-20.

Question 4:

I was very proud we were able to extend the American Opportunity Tax Credit for an additional five years in the year-end fiscal cliff deal. This was a great victory for middle-class students and their families; but as we roll up our sleeves and get to work on tax reform, there is more work to be done. I have a proposal to increase the value of the credit, extend it permanently and expand the number of middle-class families that qualify for it. In addition, over the past year, I've discussed a number of ideas with my Republican colleagues on this committee about ways to safeguard against fraud and abuse of the credit.

Can we count on your support to improve, expand and permanently extend the American Opportunity Tax Credit in tax reform?

I strongly support the American Opportunity Tax Credit (AOTC), which the Administration has proposed to make permanent. I share the Administration's goal of making college affordable for middle-income families and, if confirmed, I will work with Congress on this important issue.

Senator Stabenow

Question 1:

Housing markets have rebounded somewhat but progress has been slow and obstacles remain. Critically, millions of families are still underwater on their mortgages, affecting not only them but also the broader economy. In the Detroit metro area, almost half of all homeowners are significantly under water on their mortgages – about 130,000 families. That figure is about 11 million nationwide. Simply stated, we need to do more to help troubled homeowners and restore housing markets to health.

Treasury's Home Affordable Modification Program has shown that principal reduction can be an important element of successful mortgage loan modification programs. However, the Federal Housing Finance Agency has not permitted the GSEs, Fannie Mae and Freddie Mac, to participate in principal reduction programs, despite analyses showing that such programs could benefit homeowners, taxpayers, and the economy at large.

a. **What is your view on the importance of principal reduction loan modification to the recovery of the housing sector and the overall economy?**

b. **What steps will you take as Treasury Secretary to facilitate the use of principal reduction in the loan modification programs of the GSEs, Fannie Mae and Freddie Mac?**

I support using principal reduction on a targeted basis where it makes economic sense to do so. I believe that when used in combination with a payment-reducing loan modification such as a HAMP modification, it can be an effective way to help underwater borrowers avoid foreclosure and help housing markets to recover. If confirmed, I will continue to work with the FHFA on implementation of Treasury's housing programs, and I will be happy to consult with them if they wish to continue an analysis of principal reduction.

Question 2:

The November 30, 2012, *Treasury Report to Congress on Export Credit Negotiations* states that, "It is important that the demand for official export credit support arise only from a lack of market financing and not the mere presence of competing official export credit offers." As the global economy continues to recover and financial institutions are beginning to lend again, access to private capital should be increasing and the need for government sponsored financing lessening.

a. **As access to private capital continues to improve, please describe how you will work to reduce the instances of competing foreign export credit agency support.**

If confirmed, I would continue to press China and all other major providers to negotiate and ultimately abide by international guidelines that complement market financing. I

understand that this would build on work already underway by Treasury to bring large emerging market countries that now account for a dramatically increased share of official export credit support and that are not party to the international guidelines (e.g., China) into a new international framework that helps to ensure that official export financing support is complementary to that of the market.

b. Will you also commit to working with export credit agencies in France, Germany and the United Kingdom to seek an agreement that would reduce government-supported financing for foreign airlines that have access to commercially viable private market financing?

If confirmed, I would engage my European counterparts to strengthen guidelines that limit official export financing to airlines that have access to private market financing while maintaining a level playing field for all U.S. exporters.

In these efforts, I would seek to build on the progress made in 2011 when Treasury negotiated new international guidelines for official export financing support of commercial aircraft sales that were designed to ensure that official export credits for aircraft are used only when market financing is not available.

Question 3:

Japan has a long history of using trade and currency policies to restrict access to the Japanese market for U.S. exporters. These types of policies have inflicted tremendous harm on the U.S. economy, and especially on our auto industry. Despite these anti-competitive policies, Japanese leaders continue to express an interest in joining talks to conclude a Trans-Pacific Partnership Agreement. Recent media reports, however, indicate that Japan continues to be intent on further weakening the value of its yen in an attempt to boost its economic growth.

a. Has the Administration conducted a comprehensive analysis of the potential economic impact of Japan's inclusion in the Trans-Pacific Partnership? As Treasury Secretary, is this something you would support?

USTR chairs the interagency process that assesses and recommends potential candidates for trade agreements with the United States. As part of this process, it is my understanding that under U.S. law, USTR is required to obtain advice from the U.S. International Trade Commission (USITC) on the probable economic effects of reducing or eliminating tariffs and removing non-tariff barriers to trade for any country joining the TPP negotiations before that country enters the TPP negotiation. This process would apply to Japan were it to request to join the negotiations. The USITC also is required after the negotiations conclude to do a study and report on the likely impact of the agreement on the U.S. economy and specific industry sectors.

If confirmed, I would support Treasury's continued active participation in this process chaired by USTR.

b. What measures would you take to encourage Japan to strengthen the value of its currency?

This week, each member of the G-7, including Japan, affirmed its commitment to fiscal and monetary policies focused on domestic objectives not to target exchange rates and reaffirmed its commitment to market-determined exchange rates. If confirmed, I would engage with all members of the G-7 to ensure that they adhere to these commitments, including in statements by officials.

Senator Cantwell

Question 1:

The recent economic crisis and credit crunch have highlighted the importance for Americans to develop responsible, long-term saving habits. Savings helps families to build capital and to weather rainy days. We must make it easier to save, especially for lower income Americans and those without access to traditional savings vehicles.

When an individual receives an income tax refund, there is an opportunity for the individual to save and for the government to encourage that savings. Enabling taxpayers to check a box right on the federal tax return form and set aside some of that refund in a U.S. Savings Bond is a simple policy for encouraging savings among a broad spectrum of the population that otherwise has trouble building wealth.

What is your view on the role of savings bonds play in our economic recovery and promoting responsible saving habits? Would you support an extension of the tax time savings bond program with an option to purchase savings bonds (both paper and electronic bonds) as part of the federal tax filing process?

As more savings bonds are purchased electronically and the sale of paper bonds is phased out, what can be done to strike a balance to ensure lower-income people without access to internet service can purchase savings bonds?

I believe that encouraging Americans to save and assisting them in developing responsible, long-term saving habits is important, and purchasing U.S. savings bonds can be part of those habits. If confirmed, I look forward to working with you to encourage Americans to save responsibly and to consider potential adjustments to the existing savings bond program to help achieve this goal.

Senator Menendez

Question 1:

The Congressional Budget Office wrote in their latest report on the budget and economic outlook: "Persistent long-term unemployment will lead some workers to leave the workforce earlier than they would have otherwise and will erode the skills of other workers, making it harder for them to find work in the coming years." Compounding this problem is evidence which shows many employers discriminating against the long-term unemployed, perpetuating a vicious cycle. The longer a worker is unemployed the less attractive they are as a job candidate and the longer they remain unemployed.

Mr. Lew, how difficult do you believe the crisis of long-term unemployment is today and what, in your view, are some of the most effective steps we can take to tackle the problem?

Long-term unemployment remains a challenge after the worst financial crisis since the Great Depression. We've seen a modest decline in the length of unemployment spells over the course of the recovery as the labor market gradually improves. But, we need to do more. In addition to job creation measures that the Administration proposed through legislation like the American Jobs Act, the Administration has supported skill development and job matching programs to help maintain workers' attachment to the labor force and preparation for work. If confirmed, I look forward to working with you to pass these kinds of measures to put more Americans back to work, laying the foundation for longer term economic growth and employment.

Question 2:

In my view, expanding opportunities for workers to advance their skills and their value is a critical one when we're thinking about how to help shore up the economic fortunes of the middle class. I have a proposal that would encourage businesses to train the unemployed and under-employed for jobs they are trying to fill. It would provide a tax credit for businesses who pay for long-term unemployed workers to obtain certificates or credentials and would create a competitive pool of tax credits for business clusters who come together to set up training programs at local colleges.

It's an innovative way for Congress to begin to tackle the so-called "skills gap." Estimates show the economy is going to be short 5 million trained workers by 2018. Every state in the country is confronted with this shortage and we shouldn't shy away from any opportunity to address the issue.

Can you commit to me that you will take a look at this proposal and work with me to address the challenge of the skills gap?

Yes.

Question 3:

Senator Schumer and I are working together to introduce a package of tax provisions to help the region rebuild from Sandy. Almost every one of these provisions were ones made available to victims of Hurricane Katrina and the Midwestern floods, and are critical to rebuilding from Sandy. There was a similar bipartisan bill introduced in the House as well. All we're asking for is that our region is given access to the same recovery tools as other major disaster areas so we can get families, businesses and communities back on their feet.

Do you support the use of certain tax provisions such as have been used in past disasters to help facilitate a region's recovery from a natural disaster?

I believe that when major disaster strikes, a wide range of relief efforts should be marshaled. Because the needs of devastated communities can vary, the relief must be sufficiently flexible to address those needs. Tax provisions can help facilitate a region's recovery, and if confirmed, I would be pleased to review the proposals you and Senator Schumer are developing.

Question 4:

I have always been very concerned about Hispanic representation and procurement at Treasury. Without an adequate understanding of diverse communities from senior leadership, regulatory agencies cannot effectively prevent marketplace discrimination among communities hardest hit by the recession. This is where I have found Treasury to be weak, and this is something I hoped to address through my amendment that passed in the Dodd-Frank Wall Street reform to create the Offices of Minority and Women Inclusion.

Thus far, I am incredibly disappointed – not only with the lack of mid-to senior level Hispanics at Treasury but also the pervasive culture that makes it difficult for Hispanics to gain access. In fact, there seems to be a complete absence of a transparent diversity and inclusion policy at all levels. Essentially, I question whether Treasury has fully embraced the intent of the OMWI provision.

If confirmed, will you make Hispanic hiring and contracting a priority? If so, what specific steps will you take to change the culture of non-inclusion and incentivize department heads at Treasury to make diversity an agency-wide priority?

I am fully committed to diversity and inclusion, including Hispanic diversity and inclusion.

I understand that OMWI has established a plan to promote diversity in Treasury's Departmental Offices at all levels and is actively engaged in outreach efforts with academia and minority-serving professional organizations, including several Hispanic organizations. Additionally, in March 2012, Treasury issued its Department-wide Strategic Diversity and Inclusion plan, and each Treasury bureau has developed an implementation plan with specific actions to further the Department's diversity and inclusion goals.

Furthermore, according to OPM's annual Hispanic Employment report, the Department's participation rate of Hispanics was 9.1 percent in FY 2011, the fourth highest among major federal agencies, and above the government-wide average of 8.1 percent. During the same fiscal year, Hispanics also represented 10 percent of all new hires at Treasury, the 3rd most as a percentage among agencies. It is my understanding that Treasury expects the Hispanic participation rate to increase for FY 2012.

Regarding contracting diversity, I understand that Treasury was the only agency to meet all of its small business goals established by the Small Business Administration in FY 2011. Treasury achieved more than double the small disadvantaged business contracting goal, which is largely made up of minority-owned businesses. Preliminary data shows that Treasury once again exceeded its small business goals in FY 2012.

I know that more can still be done and, if confirmed, I would be happy to directly discuss with you Treasury's record on this important issue as well as any additional comments or concerns you may have.

Senator Carper

Question 1:

Recently, the director of the National Economic Council indicated that the President's budget will propose not only making the research and experimentation tax credit permanent, but also, will increase the credit by 20 percent. I welcome this news.

Businesses need more certainty when it comes to making research investments, and for that reason we should simplify and make the R&D credit permanent. However, I also believe the credit is greatly in need of improvement and overall reform. In preparation for undertaking tax reform, the Finance Committee has heard testimony from any number of witnesses who have recommended making addition reforms, beyond permanent extension. We have heard testimony that suggests that the current research credit might be improved in any number of ways.

Firms that conduct research and development cannot capture the bulk of the monetary returns from their research investments (even with protections provided by intellectual property law). The average rate of return from research and development to society in general—and to the competitors of the company doing research—exceeds the return to the company that actually conducted the research. Because firms understand that the fruits of their own research successes will be shared with the broader economy, there is a weaker incentive to actually conduct this research, as planners know that the overwhelming majority of benefits will go to others. The R&D credit is designed to compensate for this by reducing the after-tax cost of spending on research, thereby encouraging additional research spending.

However, many experts have suggested that the current R&D credit rate is not high enough to fully overcome the disincentives resulting from spillover effects. As a related matter, some experts have suggested that the current R&D credit structure does not properly incentivize truly groundbreaking research, but instead, effectively subsidizes incremental improvements on existing technologies. Finally, some have pointed out that tax-based research incentives are frequently unavailable to companies that most need a research funding: innovative, fledgling start-ups that do not yet have tax liabilities against which to take the credit.

How will the President's annual budget request propose to tackle these and other problems associated with the R&D Credit? Specifically, what does the Administration believe to be the proper R&D credit rate? Also, in addition to assisting manufacturers, will the Administration consider any changes to the R&D credit—or other research incentives—to direct more resources toward startup firms that are the lifeblood of innovation?

The President supports the goal of encouraging technological innovation. To this end, the Administration proposed in its Fiscal Year 2013 Budget two changes to enhance the research and experimentation (R&E) tax credit. First, the R&E tax credit would be made permanent, which would encourage research and innovation by removing the uncertainty that firms face over the

future availability of the credit when making decisions over their investments in research projects that may not be completed prior to the credit's expiration. Second, the credit rate would be increased from 14 to 17 percent for firms electing to use the alternative simplified research credit (ASC). The increased credit rate would provide an improved incentive to increase research and would make the ASC more attractive. Both of these changes to the R&E credit would further promote research investments, including research initiated at startup firms. R&E tax credits are available to firms even when they currently do not have sufficient tax liability against which to take the credit because any unused credit amounts can be carried back one year and forward for up to 20 years to offset tax liability in those years. The FY 2014 Budget has not yet been released, so I cannot speak to what may or may not be included therein.

Question 2:

One of the important goals of the Dodd-Frank Act is to ensure there are no financial institutions that are too-big-to-fail and there is a credible and workable process to unwind any failing financial firm in an orderly way. Title II of the Dodd-Frank Act is the key part of the legislation intended for this purpose, and the financial regulators have given high priority to developing the regulations to implement the provisions. In your view, with the statutory changes in hand and the regulations implementing those changes, does the United States now have a credible and effective program for orderly resolution of any failing financial institution in the U.S.?

The Dodd-Frank Act provides regulators with critical tools and authorities that we lacked before the crisis to resolve large financial firms whose failure would have serious adverse effects on financial stability. I understand the emergency resolution authority for failing firms created under Title II prohibits any bailout, while protecting taxpayers and the U.S. economy. For any financial firm that is placed into receivership under this Dodd-Frank emergency resolution authority, management and directors responsible for the failed condition of the firm will be removed and shareholders will be wiped out.

Question 3:

I'm pleased that the President called for comprehensive tax reform in his State of the Union Address. Almost everyone agrees that the Corporate Income Tax code is too complicated, too inefficient, and doesn't do enough to encourage—and may even be counterproductive to—economic growth and the competitiveness of U.S. business firms.

It is perhaps too early in the reform process to request specific proposals. However, a majority of members of the President's Fiscal Commission endorsed a proposal that included some of the elements that the President has proposed: lowering rates while closing loopholes and tax preferences. At the same time, the Commission also proposed moving to a "territorial" international tax system.

First, could you give some insight into the Administration's approach to international corporate tax reform, and the merits of adopting a territorial tax system? Second, what is the Administration's view of the argument that the current "worldwide" international tax

system actually induces businesses to locate offshore to take advantage of lower overseas tax rates? In combination with strong measures to guard against base erosion, would the Administration consider a modified territorial tax system to be part of an overall solution to the problem of "offshoring" jobs overseas?

The President's Framework for Business Tax Reform supports a hybrid approach that reduces incentives for companies to shift profits and investment to low-tax countries, puts the United States on a more level playing field with our international competitors, and helps end the global race to the bottom on corporate tax rates—while also making American companies more competitive globally. There is considerable debate as to how to reform the international tax system, but I believe that there is common ground on this subject, including a mutual concern about preserving the U.S. tax base by reducing incentives that encourage the shifting of investment and income overseas, and making the United States more competitive globally. I look forward to working with the Committee on a bipartisan basis to develop approaches to international taxation that will ensure the United States will retain and attract high-quality jobs.

Question 4:

Industry has shown extreme interest in developing offshore wind in the United States despite the unique challenges offshore wind presents. The ideal offshore winds are often found in federal waters – requiring federal permits and other logistical complications that can add years to the construction timeline. The long investment time, infancy of the industry, and higher initial costs of offshore wind, make offshore wind unique from onshore wind. Investors need a quicker return on such a long-term investment, which is why the investment tax credit is advantageous for offshore wind projects and the production tax is not. Tax certainty for the first offshore wind movers is expected to ultimately reduce costs for future projects and for consumers.

To provide long-term certainty and support the first movers in this new industry, I introduced legislation last Congress with former-Senator Snowe and other colleagues on the Finance Committee that would extend the Investment Tax Credit for offshore wind for the first 3,000 MW. Do you believe this is a concept that could work for not only offshore wind, but for other clean technologies?

This Administration has focused on building an energy economy in the United States that is cleaner as well as more efficient and secure. As part of that effort, the Administration has taken action over the past few years to support the development and deployment of renewable energy that will create new jobs and jumpstart new industries in America. Building on important progress achieved during the President's first term, including the doubling of energy from wind and solar, the United States must continue to take steps to reduce carbon pollution. To once again double generation from wind, solar, and geothermal sources by 2020, the President has called for making the renewable energy Production Tax Credit permanent and refundable, providing incentives and certainty for investments in new clean energy like offshore wind.

Question 5:

With limited budgets, we need to choose our federal investments wisely – I believe that goes for federal spending and for tax incentives. As you know, we have several permanent tax

incentives for oil and gas drilling at a time when oil companies see record profits and increased global demand for oil production. Do you believe we should prioritize our energy tax incentives to focus on newer, cleaner technology — such as offshore wind — that may need greatest investor assistance in the short-term, but will give our country energy security in the long-term?

The President has called on Congress to enact comprehensive tax reform that cuts inefficient and unfair tax breaks. This includes eliminating special tax breaks for oil and gas companies that distort markets, which are detrimental to long-term energy security and also inconsistent with the Administration's policy of supporting a clean energy economy, thereby reducing our reliance on oil and cutting pollution.

Question 6:

In the American Taxpayer Relief Act of 2012, Congress extended the production tax credit under 26 U.S.C. 45(d) and the investment tax credit under 26 U.S.C. 48(a)(5)(C) for all wind projects and changed the eligibility requirements for these credits. Mirroring the language in Section 1603 of the American Recovery and Reinvestment Tax Act of 2009, Congress made all wind projects that commenced construction by December 31, 2013 eligible for the investment tax credit and production tax credit rather than just projects placed into service. Currently, the Department of Treasury is determining what will qualify as "commenced construction." It is my hope that the agency will also mirror the Section 1603 program – as Congress intended – when determining qualifications. If you become Secretary of Treasury and this issue is yet resolved, do I have your assurances you will consider Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 as a template for the recently extended wind credits?

I have not yet become familiar with the details of this credit, but if confirmed, I would work to ensure that Treasury and IRS issue timely guidance on this topic.

Question 7:

When we enacted health care reform three years ago, we included a provision that I co-authored designed to make it easier for employers to run effective wellness programs for their employees. Before health reform was passed, companies designed outcomes-based wellness plans that incentivize people to take better care of their health, in accordance with current regulations. The provision in the Affordable Care Act that I offered as an amendment codified wellness program regulations that had been in place since 2006 under HIPAA, and allowed for greater rewards for employees within the context of those rules.

Unfortunately, rather than supporting these proven approaches to wellness programs, the Administration's proposed rule published in November, entitled "Incentives for Nondiscriminatory Wellness Programs in Group Health Plans," would actually take a step in the opposite direction due to a substantial departure of the regulations that have been in

place since 2006 and reinforced in the ACA. Our intent was to give companies the flexibility to expand outcomes-based wellness programs, but the proposed rule will actually undermine this goal. Can you provide assurance that Treasury will work to ensure that companies that comply with the current rules can operate those plans and take advantage of expanded premium differentiation?

I was not at the Treasury Department in November 2012 when the proposed regulations on wellness programs were published. However, I appreciate your leadership with respect to the Affordable Care Act, and the unique perspective you bring to the wellness program provision as co-author of that provision. The November 2012 proposed regulations, which would allow employers to offer greater rewards for employees under their wellness programs, state that appropriately designed wellness programs have the potential to contribute importantly to promoting health and preventing disease. I understand that Treasury staff are currently studying several thousand public comments regarding the proposed regulations. If confirmed, I would direct Treasury staff to fully consider the points you raised in finalizing these regulations.

Senator Brown

Question 1:

This month, the International Monetary Fund censured Argentina for not providing accurate economic statistics, including metrics related to inflation, as required by the IMF. Argentina's IMF censure was supported by the U.S. Treasury Department, and puts Argentina one step closer to being expelled from the IMF and denied access to low cost emergency IMF funding.

There are additional actions Argentina has taken to restrict trade and investments, including expropriating the assets of U.S. companies and failure to comply with arbitral awards reached pursuant to the World Bank's Convention on the International Centre for Settlement of Investment Disputes (ICSID).

Are there other "censure" mechanisms, such as those used by the IMF, which can be used by the U.S. Government to encourage Argentina to comply with its treaty obligations? For instance, I understand the Department of Treasury is currently voting against loans to Argentina in the multilateral development banks, but such votes are ineffective unless other countries join the United States in achieving a majority vote.

What other tools are available to the U.S. Department of Treasury to compel states that refuse to abide by international obligations and directly harm U.S. businesses and investors to comply with their international treaty obligations?

How would you, as Secretary, make full use of such tools and encourage other nations to do the same?

I share the serious concerns about Argentina's unwillingness to honor its international obligations.

If confirmed, I would have Treasury continue to work actively to press Argentina at every appropriate opportunity to honor its obligations.

I understand that Treasury is pressing Argentina to abide by its international obligations and to normalize its relationship with the international financial community and foreign investors, including by honoring its international obligations to provide accurate data to the IMF, paying amounts that are past due to the United States and other Paris Club members, and honoring final arbitral awards in favor of U.S. companies.

Because of these concerns toward Argentina, I understand that Treasury has opposed practically all lending to Argentina through the multilateral development banks and supported the IMF's decision to censure Argentina for its misreporting of data, and President Obama suspended Argentina's eligibility for trade preferences under the Generalized System of Preferences program. It is also my understanding that almost all other donors at the Inter-American Development Bank have joined the United States in opposing proposed loans to Argentina. I

understand that such a level of disapproval by other donors against the proposed loans to any single country is unprecedented in recent memory, and follows from the leadership position Treasury established in 2011.

Question 2:

One of your responsibilities as Treasury Secretary will be to oversee our nation's pension regulator, the PBGC, where you will be one of its three Board members. The PBGC has come under some criticism recently for their handling of the termination of some pension plans, including the Delphi Salaried plan, the US Airways Plans, and the United Plans. In the case of the Delphi Salaried Plan, the PBGC has demonstrated a lack of transparency regarding the release of records and various calculations used to value the plan, and also the time taken to calculate a final determination of the pension values that will be paid to the participants. For example, the Delphi Salaried Retirees saw their plan terminated approximately 3 ½ years ago, and have been told it will be at least another three years before they are told what their pension payments will be, making it very difficult for them to plan their vastly reduced futures.

As a member of the Board of Directors of the PBGC, what would you do to make the PBGC more transparent and open about their methods of calculating the valuations of pension plans prior to termination?

As a member of the Board of Directors of the PBGC, how would you urge the agency to correct and significantly shorten the time taken to determine the final value of pensions that will be paid by the PBGC?

I have not yet had an opportunity to fully develop a policy position on how best to address these matters, but I look forward to working with the Committee on the issue if confirmed. I do believe that it is critically important for beneficiaries to learn the final value of their pensions in a reasonable amount of time when faced with plan terminations. In my view, the PBGC should work to improve transparency surrounding these processes.

Question 3:

The U.S. government for good reasons supports an open investment regime. However, the increasing prevalence of state-owned enterprises raises concerns, especially when their host governments urge them to "go abroad" as in the case of China.

In the Trans-Pacific Partnership (TPP) negotiations, U.S. trade negotiators are trying for the first time to achieve a set of agreed multilateral rules that would discipline the trade and market-distorting practices of state-owned enterprises (SOEs). This is a good initiative that should be encouraged and hopefully will gain support from our TPP partners.

Do you have concerns that our current policy of reviewing foreign acquisitions through the Committee on Foreign Investment in the United States (CFIUS) – focused as it is solely on national security – may be too narrow and might need to be modified?

I understand that the Administration is pursuing trade and commercial concerns with regard to state-owned enterprises (SOEs) in the Trans-Pacific Partnership as a high priority. In addition, I understand that at the May 2012 Strategic and Economic Dialogue, Treasury secured a commitment by China to ensure that SOEs pay out dividends in line with publicly listed companies to ensure a more level commercial playing field.

As you note, by statute, the sole focus of CFIUS is national security. The statutorily mandated focus of CFIUS on national security is an important part of our open investment policy, which in turn brings healthy competition, creates good jobs, spurs innovation, and results in lower prices and greater consumer choice.

Within the purview of national security, the Foreign Investment and National Security Act of 2007 appropriately identifies foreign government control as a factor for consideration in CFIUS national security reviews and establishes a presumption that such transactions will be subject to a second-stage investigation to identify and address the national security effects, if any, posed by the particular transaction under review.

Question 4:

In his State of the Union address, the President spoke about the need to create ladders to the middle class.

The President knows that our nation's economic prosperity grows from the middle out. And I laud his comprehensive agenda that provides the opportunity for all to succeed.

As you know, the refundable tax credits for working families are among the most effective ladders to the middle class. By rewarding work, the earned income and child tax credits, constitute some of our nation's most effective anti-poverty programs.

Now researchers are finding that these credits have lasting, life-long benefits. Recent research shows that children in homes that receive income boosts, like those provided by these credits, do better in school and earn more as adults.

Could you comment on the effectiveness of these credits? Does this Administration support making the recent improvements to these credits permanent? Will you commit to working with this Committee to make them permanent?

If confirmed, I commit to working with this Committee to make the American Opportunity Tax Credit and recent improvements to the Earned Income Tax Credit and Child Tax Credit permanent.

Question 5:

We've recently heard federal prosecutors declare that they elected not to bring criminal charges against HSBC executives for money laundering, because they feared the economic consequences of prosecuting this global bank.

Justice Department officials have said that they will not pursue criminal charges against certain institutions if they believe that the penalties could threaten the institution's wellbeing and the institution's failure would rattle the markets.

Senator Grassley and I have questioned this policy. Unfortunately, there have been reports that some financial policy officials within the Administration hold the same view. What is your view about prosecuting banks or their executives who facilitate money laundering, tax evasion, or other financial crimes? Do you believe that bringing criminal charges against a single financial institution could jeopardize the safety and soundness of the entire financial system?

Will you, as Treasury Secretary, consult with the Justice Department in order to express your views regarding the advisability of, and penalty levels related to, criminal actions against financial institutions?

I believe that it is important to enforce the criminal laws vigorously, fairly, and in a consistent manner. How the Justice Department chooses to exercise its prosecutorial discretion is a decision that is solely theirs.

Question 6:

It's been two years since the Treasury Department issued its white paper outlining three broad options for winding down Fannie Mae and Freddie Mac and establishing a new framework for secondary mortgage market. What are your plans would for moving forward with this initiative, and the level of urgency it would have?

What are your views on the proper role that federal support should play in order to restore a vibrant housing finance market that minimizes taxpayer exposure and encourages the return of private capital to the market, while preserving the benefits of our current system, such as availability of the 30-year fixed rate mortgage, the ability of borrowers and lenders to lock-in interest rates through the "To Be Announced" market, and the multifamily rental housing market for millions of Americans?

It is critically important that we move ahead with reforming the housing finance market and winding down Fannie Mae and Freddie Mac. Creating a more stable and sustainable housing finance market is an important priority of this Administration, and, if confirmed, I would look forward to working on this issue with Congress.

The Administration is committed to a sustainable housing finance system that does not allow the GSEs to return to their previous form, where private gains were allowed at the expense of taxpayer losses. Any future system must also protect taxpayers and financial stability, promote private capital taking on more mortgage credit risk in a responsible way, and meet the needs of

our nation's rental population. At the same time, we must preserve access to credit for American families, including long-term fixed rate mortgages, and better target government support for low- and moderate-income Americans, including the development of affordable rental options. Our housing finance system must also include stronger and clearer consumer protections and must establish a level playing field for all participating institutions.

Senator Bennet

Question 1:

In Colorado, we've led the country in renewable energy production. We generate the 6th highest percentage of wind power nationally and the wind industry employs over 5,000 people statewide. Colorado is 5th in the nation in installed solar generating capacity. And the state is home to 246 different companies along the solar supply chain. As we begin our work on tax reform, how do we balance the need to streamline and simplify the tax code with the need to encourage this type of innovative technology and investment that will create the next generation of sustainable, high wage jobs?

This Administration has focused on building an energy economy in the United States that is cleaner as well as more efficient and secure. As part of that effort, the Administration has taken action over the past few years to support the development and deployment of renewable energy that will create new jobs and jumpstart new industries in America. Building on important progress achieved during the President's first term, including the doubling of energy from wind and solar, the United States must continue to take steps to reduce carbon pollution.

To date, the United States has provided only a temporary production tax credit for renewable electricity generation. This approach has created an uncertain investment climate, undermined the effectiveness of our tax expenditures, and hindered the development of a clean energy sector in the United States. To address these issues and to once again double generation from wind, solar, and geothermal sources by 2020, the President has called for making the renewable energy Production Tax Credit permanent and refundable, providing incentives and certainty for investments in new clean energy.

Question 2:

It is my understanding that since 2011, the Treasury Department has required most federal benefits, including Social Security payments and veterans benefits to be delivered electronically. This movement toward electronic payments has saved significant money and improved the efficiency of federal disbursements. The Treasury Department has not, however, required tax refunds to be dispersed electronically. Given the potential for additional savings, does the IRS intend to move away from paper checks to different forms of electronic payments? And if so, on what time frame would this likely happen?

The IRS encourages taxpayers to direct deposit refunds into their bank accounts. It is the most efficient and effective manner for the IRS to deliver refunds and last year almost three out of four refund filers elected to have their tax refunds directly deposited. The IRS is working to encourage this choice. If confirmed, I will work with the IRS to determine if there are additional steps that should be taken in this area.

Senator Casey

Question 1:

Tax reform is an expressed priority for many in the business community and beyond. While nearly everyone supports the basic tenants of promoting efficiency and enhancing competiveness, the pathway forward brings up a number of interesting questions for debate.

Please share your thoughts on how we can ensure Pennsylvania manufacturers and businesses thrive in an improved system? I know many of our global companies look to a territorial system as a good pathway forward but I would like to hear your thoughts on how domestic businesses would fare?

America's system of business taxation is in need of reform. The United States has a relatively narrow corporate tax base compared to other countries and a statutory corporate income tax rate that is nearly the highest among advanced countries. As a result of this combination of a relatively narrow tax base and a high statutory tax rate, the U.S. tax system is less competitive and inefficient. The system does too little to encourage job creation and investment in the United States while allowing firms to benefit from incentives to locate production and shift profits overseas. The system is also too complicated—especially for America's small businesses.

For these reasons, the President is committed to reform that will support the competitiveness of American businesses—large and small—and increase incentives to invest and hire in the United States by lowering rates, cutting tax expenditures, and reducing complexity, while being fiscally responsible.

In February of last year, the White House and the Treasury issued a joint report outlining the President's Framework for Business Tax Reform, which provides a solid approach to tax reform that will support high quality jobs in the United States.

Question 2:

Tax fraud is a challenging problem for law enforcement across Pennsylvania and beyond. According to a November 29, 2012 Government Accountability Office (GAO) report, there were over 600,000 incidents of tax fraud related to identity theft in 2011, more than double the previous year. More troubling, the report suggests that this finding represents only a fraction of the overall fraud perpetrated against taxpayers.

The Internal Revenue Service recently began a pilot program in an effort to combat tax fraud. As Treasury Secretary, how do you intend to expand these efforts? Are there technologies that can be employed to crack down on these crimes?

Preventing tax fraud and combating identity theft are critical to ensuring that our tax system is fair. It is my understanding that, in recent years, the IRS has undertaken an extensive effort to combat tax fraud and, if confirmed, I would continue to support the IRS in those efforts.

Question 3:

According to your testimony, job growth is a top priority. I have introduced legislation, the Small Business Job Creation Act of 2013, which would give a tax break to businesses that hire new workers and increase wages.

The administration has advocated for a similar proposal in the past. As Treasury Secretary, will you continue to press for such a policy?

The Administration made a proposal in its Fiscal Year 2013 Budget that would provide a temporary 10 percent tax credit for new jobs and wage increases. Under the proposal, qualified employers would be provided a tax credit for increases in wage expenses, whether driven by new hires, increased wages, or both. Although the economy is recovering and the private sector has increased employment, a tax credit designed to stimulate job creation and wage increases could help put Americans back to work, provide tax relief targeted at America's small businesses, and strengthen the foundation of the economic recovery.

Question 4:

Our goal in Congress is to ensure full enforcement of Iran sanctions, including the Kirk-Menendez language from last December. We must put pressure on Iran's foreign exchange reserves and balance of payments.

a. **As Treasury secretary, what additional ways are you considering to ensure that the Iranian nuclear program will not continue to withstand Western economic pressure?**

   The President has made it very clear that it is unacceptable for Iran to have a nuclear weapon, and that all options must be on the table to achieve this objective. In service of this objective, I understand that the Treasury Department has imposed increasingly robust economic and financial sanctions on Iran, including sanctions that restrict Iran's access to its foreign exchange reserves and impair its balance-of-payments position; that target entities and individuals involved in proliferation, terrorism, human rights abuses, and regional destabilization; that identify and expose Iranian efforts to deploy deceptive schemes to evade sanctions; and that cut off from the U.S. financial system those who try to assist Iran in these efforts. I firmly believe that the imposition and implementation of robust economic sanctions is critically important to achieving the President's policy of denying Iran a nuclear weapon, and due to the intensive, collaborative efforts of the Congress and this Administration, as well as steps taken at our urging by partners around the world, the current sanctions regime on Iran is unprecedented in terms of scale, and scope and impact. If confirmed, I will support Treasury's efforts to implement fully

existing sanctions and, as necessary, I would support additional actions that advance our shared objective of stopping Iran's nuclear ambitions.

b. Will the Treasury Department, under your leadership, commit to sharing with Congress your own economic analysis of the efficacy of sanctions?

I believe that it is important to provide Congress with the information necessary to perform its oversight function, and I understand that Treasury staff regularly briefs both members of Congress and their staff on the impact of Iran sanctions. For example, I understand that in the past month Treasury officials joined colleagues from the Departments of State and Energy in briefing Congressional staff on the state of Iran's economy and how the actions taken by the Administration have exacerbated Iran's economic strains. Additionally, as required under section 216 of the Iran Threat Reduction and Syria Human Rights Act of 2012, Treasury in early February provided both unclassified and classified reports on the impact of sanctions on Iran's financial system and economy. If confirmed, the Treasury will continue to share information with Congress on the efficacy of sanctions on the Iranian regime.

Senator Grassley

Question 1:

In 2007, New York University (NYU) and other schools settled with the New York State Attorney General and pledged to stop steering students to so-called "preferred" lenders. In NYU's case, while you were Executive Vice-President of the University, the school was receiving $300,000 per year in kick-backs from its preferred lender, Citigroup. In 2007, after you left NYU and went to Citigroup, NYU signed a settlement and pledged to stop this activity. While you were at NYU, did you have any conversations with Citigroup officials about these kick-backs? If so, please describe them. Did you have any knowledge of this program with "preferred" lenders?

I do not recall having any conversations with Citigroup officials regarding Citigroup's selection or actions as a preferred lender for NYU students. Also, I do not believe that I approved the selection of Citigroup as a preferred lender for NYU students. Student loans were the responsibility of NYU's Financial Aid Office, which reported (through various offices) to the Office of the Provost. I was generally aware of the preferred lender designation, but I do not recall how or when I learned of it.

I respectfully disagree with your characterization of the preferred lender designation. In March 2007, NYU released a public Notice to NYU Students, which addresses this issue in detail. According to the Notice, NYU held a competitive process in 2004 to identify a preferred lender for private loans and to assist students and families obtain loans with the best rates. NYU selected Citigroup, because it offered the best rates for the greatest number of students. After NYU selected Citigroup, the bank proposed to return to the University a small portion of its profits (0.25% of the value of the loans), which NYU put in an account for financial aid use only. In other words, NYU used the money to provide more financial aid to NYU students.

Question 2:

You were Vice-President of NYU when it first began its preferred lender arrangement with Citigroup. Did you approve this arrangement?

Did you have any knowledge of this arrangement when it was initiated? At any other time? If so, please explain how and when you learned of it.

Please see my answer to Question 1.

Question 3:

When you worked at Citigroup, Citigroup was part of then-Attorney General Cuomo's settlement regarding so-called student loan "kick-backs." Please describe in detail your involvement, if any, regarding Citigroup's legal strategy in response to then-Attorney General Cuomo's investigation.

I do not recall having any involvement regarding Citigroup's legal strategy in response to then-Attorney General Cuomo's investigation. At the time, I worked for Citigroup Global Wealth Management, which was separate from Citigroup's student loan business.

Question 4:

When you were at Citigroup, did you have any communications with anyone at NYU or its representatives in regards to then-Attorney General Cuomo's investigation or NYU's settlement with the New York State Attorney General? If so, please describe them in detail.

I do not recall any such communications.

Question 5:

At your hearing, I inquired about NYU using offshore accounts to avoid Unrelated Business Income Tax (UBIT). Hedge funds frequently set up so called UBIT blockers in low-tax or no tax jurisdiction, such as the Cayman Islands, that are in turn invested in by tax-exempt entities to get around UBIT debt financing rules. From a policy perspective, how do you view the use of blockers by tax-exempt organizations?

This is a complex area of the tax code, and I have not had an opportunity to study it in detail. Nonetheless, I am generally familiar with the Unrelated Business Income Tax or "UBIT." UBIT applies to tax-exempt entities. It subjects income that is unrelated to their tax-exempt purpose (such as religious or educational activities) to tax. This is intended to ensure that tax-exempt entities cannot use their tax advantaged status to compete with private-sector organizations that pay income tax. If confirmed, I would work with the Committee to ensure that the U.S. tax laws collect the appropriate amount of tax.

Question 6:

In the President's State of the Union Address, he expressed concern about the skyrocketing cost of higher education. The President correctly pointed out tbat the federal government cannot simply continue throwing ever more money at the problem in the form of financial aid and tax benefits. More needs to be done to encourage colleges and universities to keep the cost of a higher education under control. In response to questions asked of you by the Chairman and Ranking Member regarding your role in setting tuition at NYU, you stated you "worked hard to reduce the University's expenses to limit the need for tuition increases." Yet, during your tenure at NYU the average tuition and fees paid by students increased nearly 40%. Could you provide examples of what you did to keep tuition under control?

As Chief Operating Officer of NYU, one of my responsibilities was to manage operating costs and reduce the pressure to raise revenue, which principally came from tuition. I tried to accomplish this goal through a variety of means, including implementing a hiring freeze, reforming NYU's general procurement and purchasing practices, implementing a standard

procedure for business travel, managing real estate in a manner that limited the need for new capital acquisitions, and generally reducing common expenses (such as computer purchases).

Question 7:

As the Executive Vice President and Chief Operating Officer of New York University, you were one of NYU's highest paid employees, earning even more the President and Dean of NYU. In fact, based on data from the Chronicle of Higher Education your salary was higher than most college presidents at either public or private institutions.

a. **As you worked hard to reduce expenses to limit tuition increases, which actually increased nearly 40%, did you ever look inward at the expenses of the executive suite?**

b. **How was your salary at NYU determined? What types of compensation in addition to salary did you receive from NYU?**

As I previously disclosed to the Committee, my NYU salary was established in an employment agreement that I signed nearly twelve years ago, in May 2001. NYU recruited me to address a series of particularly challenging management issues, including the unsuccessful merger in 1998 of the Mt. Sinai and NYU medical centers. During my five years at NYU, my salary rose approximately five percent total (or approximately one percent per year). For some years, there was no increase. In addition to my salary, I received housing assistance, tuition remission, and a one-time severance payment upon my departure.

Question 8:

My understanding is that according to Forms 990 filed by New York University from 2002 to 2005 you were provided a sizable loan as part of your employment. The amounts reported include $1.4 million in 2002, $748,000 in 2003, $698,000 in 2004, and $673,000 in 2005.

a. **Please describe the terms of the loan including interest rate, minimum payment requirements, term, and the purpose of the loan. Be sure to explain how a reasonable rate of interest was determined.**

b. **Please describe how the loan was repaid and whether any portion of it was forgiven.**

c. **Were any terms of the loan altered at any point? If so, please describe which terms were altered and when.**

d. **Please provide the promissory note and any other documents related to the loan.**

e. **If the loan interest rate was below market, or if the loan was forgiven, did you report appropriate amounts as income to the IRS?**

The terms of NYU's housing assistance are described in the employment agreement referenced in my answer to Question 7. In short, the University provided a mortgage forgiven in equal installments over five years, and an additional shared appreciation mortgage. I do not recall the interest rate or other specific terms. According to my employment agreement, the interest on both loans was equal to the rate earned by the bond portion of NYU's endowment in the quarter preceding the signing of the mortgage. NYU provided an annual payment equal to the interest paid on the first mortgage described above. NYU reported income related to housing assistance on my Forms W-2, and I paid all taxes that were due.

Question 9:

As you may know, I have been actively reviewing our tax-exempt laws governing nonprofits of all stripes, including colleges and universities. What role do you see for our tax-exempt laws in ensuring the affordability of a higher education?

I have not had an opportunity to study this issue in detail. If confirmed, I would welcome your thoughts and would be happy to discuss the issue further with the Committee.

Question 10:

One concern I have is that current laws governing executive compensation of nonprofits are inadequate and administratively difficult to enforce. Under current law, an excise tax is imposed on a nonprofit leader that knowingly participates in an excess benefit transaction. A rebuttable presumption, or safe harbor, for the nonprofit is establisbed if the compensation of an officer or key employee is based on an independent compensation study. My concern is that this rebuttable presumption has resulted in a race to the top in officer and key employee compensation.

a. **In your view, have current rules governing the compensation of officers and key employees of nonprofits been effective?**

b. **Would you favor replacing the current rebuttable presumption with a minimum standard of due diligence?**

I have not had an opportunity to study this issue in detail. If confirmed, I would welcome your thoughts and would be happy to discuss the issue further with the Committee.

Question 11:

A key focus of my review of colleges and universities has been the accumulation of billion dollar endowments while at the same time tuition continues to rise exponentially. During your tenure, NYU's endowment increased nearly 60 percent from around $1.1 billion to over $1.7 billion. How did the size of the endowment inform your budget decisions, including the large tuition increases that occurred and the availability of financial aid?

During my time at NYU, I was responsible for budget, finance, and operations, which included preparing the University's financial plan and making sure that revenues and expenses were aligned. Tuition is the principal source of revenue for NYU, as it is for most private universities. NYU draws some income from its endowment annually. The precise amount is approved by the Board of Trustees, but it is relatively small compared to the University's overall budget. For example, according to NYU's fiscal year 2013 operating budget (which is publicly available online), the University's total budget is approximately $2.5 billion. The revenue drawn from the endowment (the "endowment distribution and other investment income") is approximately $109 million, or approximately 4 percent of the NYU's total operating budget.

Question 12:

One proposal that could help ensure large endowments are working for the students is to require colleges and universities to spend a certain percentage of the value of their endowments each year. Private Foundations are currently subject to a 5 percent payout requirement. Do you believe our nation's universities and colleges should be subject to a similar requirement? Why or why not?

During my time at NYU, the University considered numerous factors—such as the long-term viability of the endowment, the need to keep tuition low, and constraints imposed by New York state law—in determining the appropriate annual draw from its endowment. Various options were presented to both the Finance and Investment Committees of the Board of Trustees, and the annual draw was ultimately subject to approval from the full Board. I do not recall the specific details, but I believe the annual draw was typically based on a percentage of the annual yield from the endowment. A rule that mandated a minimum payout based on the value of the endowment—rather than the annual yield—could harm the long-term viability of an endowment during periods of economic stress. I have not had an opportunity to study this issue in detail, however, and I would be happy to discuss the issue further with the Committee.

Question 13:

In 2006, I authored updates to the Internal Revenue Service (IRS) whistleblower program to increase the tools available to track down and expose tax cheats. It has proven to be the most successful program the administration has to go after the big time tax cheats. Yet, I am concerned that some within Treasury and the IRS view whistleblowers and the whistleblower program with hostility. I have highlighted my specific concerns in several letters to Treasury and IRS. Please review my letters and inform me of what actions you plan to take to ensure the effectiveness and efficiency of the IRS whistleblower program. In doing so, please be sure to address concerns about a lack of communication with whistleblowers and the length of time it takes to process claims.

I agree that the IRS whistleblower program is an important tax administration tool, and, if confirmed, Treasury and the IRS will continue to work with you on ensuring the effectiveness and efficiency of the IRS whistleblower program and addressing your concerns on the program's operation.

Question 14:

At your hearing, you stated that you believe it is best if corporate and individual tax reform is done together. Yet, the tax reform framework issued by the President in February 2012 focused only on corporate reform. When can we expect the President to issue a similar framework for individual tax reform?

As you noted, the President's Framework for Business Tax reform was released in February 2012. In his FY 2013 Budget, the President called for fundamental reform that meets five key principles: (1) simplifying the tax code and reducing tax rates; (2) reforming inefficient and unfair tax breaks; (3) decreasing the deficit while improving progressivity; (4) increasing job growth and creation in the U.S.; and, (5) observing the Buffett rule so that those making over $1 million do not face a lower tax rate than middle-class taxpayers.

If confirmed, I look forward to engaging with the members of this Committee to move forward on tax reform measures so that we can efficiently and fairly raise the tax revenue we need.

Question 15:

In response to a question from Senator Crapo, you indicated that a lower corporate tax rate should be accompanied by "a minimum worldwide tax rate." The concept of an international "minimum tax" was first included in the President's February 2012 tax reform framework, but there has since been very little, if any, detail provided on how that proposal would work. Will the President's FY 2014 budget proposal include this proposal and will the Treasury department provide a more specific explanation? If not, when can Congress expect Treasury to provide these details?

The President's Framework is intended to lay the foundation for a dialogue with Congress and stakeholders on tax reform. I understand that the Administration has been engaged in an ongoing process, consulting with stakeholders, tax policy experts, members of Congress, and other policymakers, however, the President's FY 2014 Budget has not yet been released, so I cannot speak to what may or may not be included therein.

Question 16:

In further response to Senator Crapo, you said that there is "room to work together" with Congress to reform our worldwide tax system and negotiate a competitive territorial tax system in the corporate code. You said "We actually have a debate between whether we go one way or the other, and we have a hybrid system now. It's a question of where we set the dial." The President's Framework for Business Tax Reform included a number of proposals that would curtail deferral, including the proposal for a "minimum worldwide tax rate" that you referenced. These proposals would increase the amount of active foreign business income that would be subject to current federal tax.

a. **Wouldn't these proposals turn the "dial" of our hybrid system toward the worldwide end of the spectrum and away from the territorial end?**

b. In your view, would "a competitive territorial tax system" be a hybrid that is more or less worldwide than our current system?

c. Please describe what types of foreign income would receive territorial treatment or worldwide treatment under such a system. Would income that is subject to the international "minimum tax" be exempt upon repatriation?

The President's Framework for Business Tax Reform supports a hybrid approach that reduces incentives for companies to shift profits and investment to low-tax countries, puts the United States on a more level playing field with our international competitors, and helps end the global race to the bottom on corporate tax rates—while also making American companies more competitive globally. There is considerable debate as to how to reform the international tax system, but I believe that there is common ground on this subject, including a mutual concern about preserving the U.S. tax base by reducing incentives that encourage the shifting of investment and income overseas, and making the United States more competitive globally. I look forward to working with the Committee on a bipartisan basis to develop approaches to international taxation that will ensure the United States will retain and attract high-quality jobs.

Question 17:

The biodiesel tax credit expired at the start of 2012 and was retroactively extended at the beginning of 2013. It has come to my attention that new procedures put in place by the IRS to claim the biodiesel credit for the first three quarters of 2012 may pose a barrier to partnerships, joint ventures, and Coops retroactively claiming the credit for 2012. Under the procedures, biodiesel producers organized as a partnership, joint venture, cooperative or LLC will not be able to claim the credit directly, but instead will have to issue statements to the partners who in turn would have to claim the credit. As most producers have contracts with petroleum companies or blenders to rebate to them the value of the credit, having the credit paid the partners instead of the entity puts these producers in a very difficult position. This issue impacts most biodiesel producers greatly frustrating the purpose behind Congress retroactive extension of the law. If you are confirmed as Treasury Secretary, will you direct IRS to solve this issue so the law will work as intended?

If confirmed, I will look into the issue you raise.

Question 18:

The research and development (R&D) tax credit requires businesses to perform complicated calculations to determine their eligibility. This has been a major roadblock to medium and small sized businesses claiming the credit. In 2006, Congress added the alternative simplified credit (ASC) to make it easier for businesses, especially smaller sized businesses, to determine their eligibility for the credit. However, the Treasury and IRS through regulation in 2008 – without any support in the statute – greatly limited the benefits of the ASC by not allowing it to be taken on amended returns. President Obama has been referencing the importance of the R & D credit to the nation and even calling for

it to be made permanent. Why then would the Administration inhibit the use of the credit to small and medium businesses? If you are confirmed as Secretary of the Treasury, will you review these regulations and consider allowing the ASC to be claimed on amended returns?

The Administration strongly supports the continuation of the Research and Experimentation (R&E) credit and has proposed to make the R&E credit permanent and to simplify and expand it. If confirmed, I would be happy to look into the specific issue you raise.

Question 19:

Implementing the Affordable Care Act (ACA) is a massive undertaking for the IRS. However, the Administration has been less than forthcoming with the administrative costs and resources that will be necessary for the IRS to implement it over the next several years.

a. **Can you give me a better picture of the resources the IRS has devoted to implementing ACA?**

b. **How many employees are devoted to these projects (full and part-time)? How much has the IRS paid or committed to paying outside contractors to implement ACA?**

Since the passage of the Affordable Care Act (ACA), no additional appropriated funding has been provided to the Internal Revenue Service (IRS) for implementation. The ACA included a $1 billion fund, the Health Insurance Reform Implementation Fund (HIRIF), to be administered by HHS and to be used to fund the early phases of ACA implementation. The IRS spent $488 million of HIRIF funding on ACA implementation from FY 2010 through FY 2012.

In FY 2012, the IRS had just under 700 full-time equivalent staff working on ACA. From FY 2010 through FY 2012, the IRS spent $297.1 million on information technology contract costs.

c. **I am sure the IRS has done budgeting for the upcoming year. What are projected staff numbers and cost of implementation for the next year?**

The FY 2013 President's Budget requested $360 million and 859 FTE, about 70 percent of which is for IT implementation and program management.

Question 20:

As a former Citigroup employee, do you believe that Citigroup's size played a role in its ultimate collapse and need for a taxpayer bailout?

I believe there were many factors that contributed to the 2008 financial crisis and Citigroup's need for taxpayer support. These factors included the emergence and rapid growth of institutions and financial activities outside the scope of classic banking regulation (commonly referred to as

the "shadow banking" system); a dramatic and widespread increase in leverage and risk; increased reliance on short-term funding sources (such as the repurchase or "repo" market); fundamental breakdowns in risk management practices across the financial sector; increased complexity and lack of transparency regarding the over-the counter derivatives markets; and, an outdated and inadequate regulatory structure, with weak or nonexistent capital requirements. I believe these factors played a more significant role in the crisis than the size of any one individual firm.

Question 21:

Do you believe that the "Too Big to Fail" provisions in Dodd-Frank ensure that the failure of large financial institutions will not cripple the economy? If not, what additional measures are needed?

The Dodd-Frank Act provides regulators with critical tools and authorities that they lacked before the crisis to resolve large financial firms whose failure would have serious adverse effects on financial stability. I understand the emergency resolution authority for failing firms created under Title II prohibits any bailout, while protecting taxpayers and the U.S. economy. For any financial firm that is placed into receivership under this Dodd-Frank emergency resolution authority, management, and directors responsible for the failed condition of the firm will be removed and shareholders will be wiped out.

Question 22:

Regulators should not be afraid to take large financial institutions to trial when they have broken the law. If you are confirmed as Treasury Secretary, you will be a frontline regulator of the financial system. Do you agree that the threat of a trial has an important deterrent role in preventing illegal behavior by large financial institutions?

I believe that it is important to enforce the criminal laws vigorously, fairly, and in a consistent manner. How the Justice Department chooses to exercise its prosecutorial discretion is solely theirs.

Question 23:

Is LIBOR a safe and reliable benchmark rate for American investors? Would you consider the construction of American-based benchmark interest rate similar to LIBOR?

I am committed to protecting market integrity. Important steps are being taken by the relevant regulatory and law enforcement agencies in the United States and abroad to investigate issues related to LIBOR and to address misconduct where they find that it may have occurred. I urge them to continue this important work. As I understand, there are ongoing efforts by the global regulatory community to comprehensively strengthen the integrity and governance of LIBOR, as well as to evaluate potential alternatives.

Question 24:

Were you aware that Citigroup had 121 Cayman subsidiaries?

a. **Were you aware of any of Citigroup's Cayman subsidiaries?**

b. **If so, please describe in detail the nature and extent of your work involving any of the particular Cayman subsidiaries?**

During my time at Citigroup, I served as chief operating officer for two different business units. I did not have any role in creating investment funds or deciding where they were located. I do not recall being aware of any particular Citigroup subsidiaries located in the Cayman Islands.

Question 25:

Did you plan any role in the development of Citigroup's tax strategy? If so, what role?

No.

Question 26:

Did you at any point in your tenure at Citigroup raise opposition to the use of Cayman Islands-based corporation in transacting company business? If so, when and how?

Please see my answer to Question 24.

Senator Crapo

Question 1:

What are the key components you believe must be included in tax reform? If Congress did nothing but cap or eliminate certain credits and deductions for certain taxpayers, in an effort to raise a targeted amount of revenue to be used for deficit reduction or to offset spending, would you consider that to be "tax reform"?

As the President outlined in his FY 2013 Budget, fundamental tax reform has five key components: (1) simplify the tax code and lower tax rates; (2) reform inefficient and unfair tax breaks; (3) decrease the deficit while protecting progressivity; (4) increase job growth and creation in the U.S.; (5) observe the Buffett rule so that those making over $1 million pay no less than 30 percent of their income in taxes.

The President's Framework for Business Tax Reform provided some additional detail on how the tax system can be reformed. Reducing unwarranted tax credits and deductions can be an appropriate way to raise revenue and should be a component of tax reform because it can improve tax simplicity, fairness, and efficiency. I hope, however, that we will be able to work together to achieve more far-reaching reforms.

Question 2:

Do you believe that comprehensive tax reform, if done right, can and should have a significant positive effect on economic growth, which likely cannot be fully captured in traditional static projections? Would any tax reform proposal be worth doing, if it was projected to reduce, or have no measurable effect on, economic growth?

I believe that tax reform can and should help to improve the functioning of the U.S. economy. It should also improve simplicity and fairness in our tax laws. All of these objectives make tax reform a worthwhile undertaking.

Question 3:

The Social Security Disability Insurance (SSDI) program is projected to be insolvent before President Obama leaves office. The Medicare program is projected to be insolvent before President Obama's successor leaves office. Separate from the discussions and debates on how much deficit reduction we need, and how much revenue we need to raise for the general fund, do you agree that leadership and action is needed right now to enact the necessary structural reforms to ensure that the next Administration is not handed key entitlement programs that are either insolvent or on the brink of insolvency?

Social Security and Medicare are critical programs to our nation's senior citizens and the disabled, and we must work to ensure their long-run solvency so that both our seniors and future generations can continue to rely on them. The President has expressed a willingness to make difficult choices to address these challenges.

As the Affordable Care Act has shown, we can make considerable progress on improving the solvency of these programs while preserving them. I understand that largely due to the ACA, for instance, the 75-year actuarial deficit of the Hospital Insurance Trust Fund is lower by two-thirds now than it was before the ACA and the life of the Trust Fund has been extended by eight years.

The projected exhaustion of the Disability Insurance Trust Fund is an important issue that should be addressed by policymakers in a way that modernizes the program and also best serves the disabled population, now and in the future.

Question 4:

When we see the President's budget request, will it contain new proposals that will be scored by CBO to dramatically improve the solvency of these programs?

In the President's FY 2013 Budget, the Administration proposed to strengthen Medicare while saving about $300 billion over the next 10 years. The Administration has shown a willingness to consider even more to make the program sustainable over a longer time-frame. At the same time, we must protect America's seniors by ensuring that changes to Medicare still safeguard vital programs. The President's FY 2014 budget has not yet been released. If confirmed, I look forward to addressing this and related questions once that budget is released.

Question 5:

The Social Security program is now running annual deficits and is projected to be insolvent within a generation. While it may be politically very dangerous to deal with, every expert from every side of the political spectrum that presented before us in the Bowles-Simpson Commission told us that Social Security reform is actually far easier to do on a policy basis than Medicare or Medicaid reform. Is the President prepared to work with us on comprehensive Social Security reform now, which will ensure the program's solvency for at least the next 75 years?

The President has shown a willingness to work with Congress in making the difficult choices necessary to ensure the long-run sustainability of all our entitlement programs, including Social Security. He remains committed to ensuring their long-run solvency, so that both our seniors and future generations can continue to rely on them.

Question 6:

If the President does not believe it is yet timely to enact Social Security reform, when exactly does he believe is the appropriate time to do it?

Please see my answer to Question 5.

Question 7:

There has been much recent discussion about the composition and effects of recent deficit reduction efforts, particularly the Continuing Resolution, the Budget Control Act and the recent Fiscal Cliff agreement. I know there are some modest Medicare savings currently projected to be a part of the sequester. Outside of those modest savings, which have yet to actually take effect, is it not correct that, regardless of the significance that one may apply to the overall deficit-reduction effects of those pieces of legislation, those measures have not had any measurable effect on improving the solvency of any of these important programs?

A number of provisions of the Affordable Care Act (ACA) will restrain Medicare spending growth while maintaining services to the Americans who rely on it. I understand that many provisions of the Affordable Care Act reducing health care costs have already started, including provisions to provide financial incentives for hospitals to provide high quality care, provisions to fight fraud and abuse, and reductions in overpayments to Medicare Advantage plans. I also understand that the ACA began several programs that could greatly increase the efficiency of care, like Accountable Care Organizations and bundled payments to providers. Taken together, the provisions in the ACA extended the solvency of the Hospital Insurance Trust Fund by eight years. The President is committed to doing more to ensure the long-run solvency of Medicare and Social Security.

Question 8:

Is it also true that any further revenue increases, spending cuts, or fiscal reforms, unrelated to the Medicare and Social Security Trust Funds, will not have any measurable impact on improving the solvency of these programs?

Fiscal measures do not directly impact the solvency of the programs themselves, unless they involve the operation of the Trust Funds. The overall current fiscal condition of the government, including Trust Fund programs, is reflected in the unified budget.

Question 9:

The 2004 American Jobs Creation Act ("Jobs Act"), and the implementing rules issued by the Treasury, have had a deleterious impact on the Virgin Islands Economic Development Commission ("EDC") program and the Territory's economy. Scores of businesses have closed (including the Territory's largest private sector employer), and many potential investors who considered relocating to the Territory have determined that the Jobs Act rules are too burdensome and have chosen to invest elsewhere. One study commissioned by the EDC found that 36 companies that closed their doors in the period between 2004 and 2009 cited the Jobs Act rules as the primary reason for terminating their operations. Another 22 companies that had been approved by the EDC during the same period declined to commence operations. The result is a stagnant economy, declining revenues, and record levels of unemployment.

My bipartisan Finance Committee colleagues and I have been assured by Treasury on several occasions that it is willing to reconsider its rules in an effort to assist the Virgin

Islands and promote economic growth in a challenging environment. Can I have your personal commitment to work with this committee to address these issues going forward?

I am not yet familiar with the details of this matter, but, if confirmed, I look forward to working with you and the Committee on issues of economic development in the U.S. Virgin Islands.

Question 10:

There is a growing list of Dodd-Frank Act issues that Congress needs to fix. One bipartisan solution is to protect end-users of swaps from burdensome margin requirements. Are you open to working with the Senate Banking Committee to find bipartisan Dodd-Frank Act fixes?

The Dodd-Frank Act provided critically important reforms over derivatives activity and, if confirmed, I am committed to completing full implementation of the legislation. The issue of end user margin is very important, but I understand that the regulators have not yet completed their task in this regard. Once there has been full implementation, I am happy to work with the Senate Banking Committee and other Members on issues that warrant attention.

Question 11:

Concern has been expressed about the impact of the Dodd-Frank Act and the Basel III reforms on bank capital on the financial system and our economy broadly. I am concerned that failure to consider and balance the combined impact of all of the regulatory changes will have real consequences on our economy beyond just the obvious constraints on bank lending and the availability of credit. Do you still share these concerns?

I think we need to be attentive to the benefits and burdens of all regulations, particularly in an area as important to the economy as financial services. For example, the crisis revealed that banking institutions need more and better capital to help reduce the probability of a future financial crisis. We need strong standards that reflect on these lessons learned from the financial crisis, but we also must avoid the imposition of undue costs that could harm the U.S. banking system or impede lending that could negatively impact businesses, consumers, and the economy as a whole. It is important that Treasury continues its dialogue with the banking regulators as they work towards implementing the Basel III capital standards and the Dodd-Frank Act.

Question 12:

In 2011, Treasury released a GSE white paper that provided three options on how to proceed with Fannie and Freddie. Do you intend to provide more details with regard to the plan on how to reform the housing finance market?

It is critically important that we move ahead with reforming the housing finance market and winding down Fannie Mae and Freddie Mac. Creating a more stable and sustainable housing finance market is an important priority of this Administration, and, if confirmed, I would look forward to working on this issue with Congress.

The Administration is committed to a sustainable housing finance system that does not allow the GSEs to return to their previous form, where private gains were allowed at the expense of taxpayer losses. The Administration is also committed to a system that promotes private capital taking on mortgage credit risk in a responsible way in order to reduce the government's footprint in the housing finance system, and protect taxpayer interests; promotes financial stability; better targets government support for low- and moderate-income Americans, including the development of affordable rental options; supports stronger and clearer consumer protections; and, establishes a level playing field for all institutions participating in the housing finance system.

Question 13:

The Terrorism Reinsurance Act is coming up for reauthorization. Do you believe that private insurers should assume more of the financial responsibility for terrorism risk insurance?

I understand that the Terrorism Risk Insurance Act (TRIA), and its amendments, established a federal reinsurance program that facilitates private insurance market coverage of terrorist events. Recognizing that the TRIA backstop is essential, I believe TRIA should be structured to minimize taxpayer exposure and maximize the responsibility of private insurers.

Question 14:

One of the roles of the Secretary of the Treasury is to Chair the Financial Stability Oversight Council (FSOC) and to ensure coordination among regulators and guard against regulations that unnecessarily harm U.S. competitiveness. What is your opinion of the role of the FSOC in coordination with FSOC members to avoid duplicative, costly or overburdensome regulations? Do you agree that the Securities and Exchange Commission, Commodities and Futures Trading Commission, and international regulators need to clearly address cross-border issues in their rules by harmonizing the substance and timing with their international counterparts?

I believe the Council has played, and will continue to play, a critical role in providing a venue for coordination and collaboration among regulators. I also believe that we should coordinate internationally so that different jurisdictions adopt comparable rules and regulations so that there is a level playing field that minimizes the risk of regulatory arbitrage.

Question 15:

In April of last year, FSOC approved a final rule to determine which non-bank financial firms require Federal Reserve scrutiny. The final rule has been criticized for its failure to adequately address the issue of interconnectivity in the financial sector, the treatment of U.S. subsidiaries of large foreign companies, or how it will provide consistency with similar G20, European Union or United Kingdom regulatory framework. As FSOC's chair, how

would you address these significant issues while ensuring that U.S. non-bank firms are not at a competitive disadvantage in the global marketplace?

By moving early with the passage and implementation of the Dodd-Frank Act, the United States has been able to lead from a position of strength in setting the international reform agenda and elevating the world's standards to our own. U.S. regulators and Treasury are working closely with their international counterparts on a number of initiatives, including the process for identifying global systemically important financial institutions. If confirmed, I would emphasize continuing this important work.

I am confident that the checks and balances built into the nonbank designations process will promote appropriate determinations. I understand that the Council is engaging in extensive company-specific analyses to determine which nonbank financial companies should be designated, based on factors including companies' interconnectedness.

Question 16:

In its November 2011 report and again in 2012, GAO recommended that FSOC work with the federal financial regulators to establish formal coordination policies for Dodd-Frank rulemaking that clarify issues, such as when coordination should occur. Nonetheless, the FSOC has not established such formal policies. Will you commit to implementing the formal coordination policies and procedures as recommended by GAO?

The Council has played a crucial role in fostering both formal and informal coordination among regulatory agencies. I expect that the Council will continue to serve as a forum for agencies to discuss important issues regarding financial regulation. If confirmed, as Chair of the FSOC, I would continue the Council's important work in facilitating interagency coordination.

Question 17:

Last November, FSOC exercised its authority under Section 120 of Dodd-Frank for the first time to publish for public comment recommendations for structural reforms of money market mutual funds (MMFs). The recommendations the FSOC made were exactly the same as the alternatives that failed to garner the necessary votes for the Securities and Exchange Commission (SEC) , the functional regulator of MMFs, to put forth for public comment and did not include alternatives that SEC Commissioners publicly stated were likely to be put forth in an impending SEC rule proposal. Should the FSOC put forth for public comment issues and proposals that may be contrary to regulatory proposals that the functional regulators are likely put forth? In this instance, do you believe the FSOC's action has compromised the independence of the SEC?

The Dodd-Frank Act authorizes the FSOC to issue recommendations to regulatory agencies to apply new or heightened standards and safeguards for a financial activity or practice that the Council determines could pose risks to financial markets. By issuing proposed recommendations on MMF reform, the Council enabled an important public discussion on the structural vulnerabilities of MMFs and alternatives for much-needed reform. In my view, this action

allows policymakers, industry participants, and other members of the public to discuss the key issues and options for reform.

The FSOC's proposed recommendation notes that if the SEC accepts the recommendation, it is expected that the SEC would implement the recommendation through its own rulemaking. The FSOC process does not supplant the SEC's authority, and I agree with the view of the FSOC that the SEC is best positioned to implement reforms to address the risks posed by MMFs.

Question 18:

With hundreds of new regulations either proposed or already finalized under Dodd-Frank, and more yet to come, many argue that the U.S. financial institutions are facing a serious competitive disadvantage and have erected barriers to new entrants in the markets. In your view, does the cumulative regulatory burden and anticipated burden of yet to be finalized regulations create a barrier to entry for new entrants in the banking, securities and insurance markets? How can the U.S. financial markets remain competitive in a global marketplace with such enormous regulatory burden and more to come and what measures would you take as tbe Secretary of the Treasury to encourage banks not to move to jurisdictions that require less regulatory burden?

The Dodd-Frank Act is critical to the reform of the financial system and restoring investor confidence. The safety and soundness of our financial system is also critical to attracting new entrants. As with all regulation, I think we need to be attentive to the benefits and costs, particularly in an area as important to the economy as the financial services industry. It is important to continue working with our international counterparts to help ensure that U.S. and international financial firms are subject to strong standards and able to compete on level terms.

Question 19:

As independent regulatory agencies, the federal financial regulators are not subject to Presidential Executive Orders, including two Executive Orders issued by President Obama, which require comprehensive cost-benefit analysis and require agencies to coordinate regulations to avoid duplication or unnecessary costs in accordance with guidance issued by the Office of Management and Budget (OMB). While most financial regulators say that they generally attempt to follow OMB's guidance in principle or spirit, a recent GAO study found that the agencies did not consistently follow key elements of the guidance in their regulatory analyses for the 66 Dodd-Frank rules GAO analyzed. Do you believe that the federal financial regulators should follow the President's Executive Orders and OMB guidance regarding comprehensive cost-benefit analyses? How should agencies work together to find the cumulative effect of regulations on regulated entities, consumers and the economy?

I believe that it is important for the independent financial regulatory agencies to coordinate and to perform a rigorous analysis of the implications of their regulations, consistent with their statutory requirements, so as to avoid unnecessary costs (both quantitative and qualitative), overlap, and conflict. If confirmed, I would look forward to serving as the Chair of the Financial

Stability Oversight Council and working with Council members to further strengthen our collective efforts in this area. I believe the FSOC can play an important role coordinating closely with the regulatory agencies to achieve the aims of Dodd-Frank.

Senator Roberts

Question 1:

I want to address the issue of business aviation and the proposal to change the depreciation schedule for jets, agriculture aircraft, and piston engine aircraft from 5 to 7 years. The estimates that I have seen say that this will raise $200 to 300 million a year. This of course does not account for the loss in tax revenues and jobs that would be caused by this change.

The Congressional Budget Office projects that the federal deficit for this year will be $845 billion. As I calculate the change you propose, it would reduce the FY2013 deficit – using the most favorable numbers to you – by about 2 millionths of a percent. Based on this calculation, can you understand why someone like me who has seen general aviation manufacturers in my state lose 50% of their workforce – unionized workforce by the way - objects to the misleading focus and rhetoric around this issue. I would hope that you would set a higher standard as Treasury Secretary – these political games are beneath the office and seriousness of these issues.

These vindictive attacks come at the same time the administration is pushing a new set of policies to reinvigorate the U.S. manufacturing sector. The goal of these policies is to double exports, retain and build a robust manufacturing base and help communities to access and compete in markets across the states or across the world. During your tenure with Citigroup, did you ever fly on the firm's corporate jets or helicopter? If so, what was the purpose of this travel? What business advantage was there to you or the company from you travelling on these business assets?

During my time at Citigroup, I generally traveled on commercial carriers. I was not one of the most senior executives who had access to company aircraft. In limited instances, however, I traveled with those senior executives. In those circumstances, I would accompany them because it was more efficient than flying separately.

Question 2:

I struggle to understand the assault that this administration has leveled against Business Aviation while working to improve our manufacturing sector. It's clear to me that Business Aviation is, in fact, the perfect example of a world-leading, high tech industry that we should be doing all we can to support. Yet, we are barraged by the negative spin about "fat cat jets." It's neither accurate nor fair and has a deeply damaging effect on the aviation market. Is it consistent to promote pro-manufacturing policy while attacking a successful manufacturing sector?

The Administration is committed to a strong domestic manufacturing sector, including the production of aircraft. I believe it is important to treat both commercial and non-commercial aircraft consistently.

Question 3:

Business aviation provides a large number of high paying manufacturing and services jobs in my state and across the country; helps companies to be efficient and competitive in the global markets; is a lifeline to communities with little or no airline service; and plays a vital part in this country's emergency preparedness and disaster assistance. If the administration continues to say that it likes the U.S. to build aircraft but continues to attack the people and companies who use business aircraft, will we have a robust aircraft manufacturing base? Or, will we kill off this leading, high-tech, internationally competitive industry?

Please see my answer to Question 2.

Question 4:

The depreciation period for business aircraft has been in place for decades and it has worked exactly as Democrats and Republicans intended. None of the taxpayers utilizing this schedule are trying to avoid law. They are simply following a law that was established by the Kennedy Administration and later adopted by Congress. Can you confirm that the Treasury Department during the Kennedy Administration first put forward the depreciation schedule for business airplanes?

I understand that the depreciation schedules for aircraft changed several times in the 1980s although those changes were made to original guidance from a revenue ruling from the 1960s.

As I said at the Finance Committee hearing, the purpose of the proposal is to create a fairer tax code by establishing parity in the depreciation rules for all aircraft that primarily carry passengers. In addition, as I said at the hearing, the purpose of the proposal is not aimed at trying to do any damage to the general aviation industry. The Administration is committed to a strong domestic manufacturing sector, including the production of aircraft.

Question 5:

It is inaccurate to call the current depreciation period for business aircraft a "loophole." There is no way anyone can watch the countless video tapes of the President talking about business aviation without hearing vilification in the tone of his voice." Frankly, I fail to see how this proposal, which would raise such a tiny amount toward reducing our deficit, can continue to be a centerpiece of your policy. It makes no sense to destroy this industry when it is such a key contributor to our international competitiveness and such a strong generator of exactly the kind of jobs we need in Kansas and across the nation. Does the administration consider this a "loophole"?

Please see my answer to Question 2.

Question 6:

Repeal of "last-in-first-out" (LIFO) accounting continues to be included in the administration's deficit reduction proposals despite concern about the proposal that has increasingly been expressed from both sides of the aisle. One of the major problems I have with the proposal is the degree of retroactivity that is associated with it. As I understand the proposal, the administration would not simply terminate the LIFO method prospectively (which I would oppose in any event), but would require all LIFO taxpayers, large and small, to pay over to the Treasury all of the tax benefits they have ever received from LIFO, even those benefits dating back 60 or 70 years -- the full period LIFO has been in existence. In other words, the administration would require that those taxpayers be treated as if they were never on LIFO in the first place. Quite apart from the harsh economic consequences to the companies that would therefore result from the proposal, do you really believe that a proposal so constructed is fair?

I support the Administration's proposal to repeal the LIFO method of accounting. This proposal would be a step toward the overall tax reform goals of base-broadening, fiscal responsibility, and tax simplification. Like most accounting method changes, taxpayers switching from LIFO would have to make an adjustment. To alleviate this burden, the proposal would allow taxpayers to spread any increase in income over ten years rather than the four-year period required under current law.

Question 7:

Recently, eleven members of the European Union joined together in support of a EU financial transaction tax. We have heard reports that the countries interested in deploying such a tax plan will use the revenue collected here in the United States to pay down European debts. I ask you whether or not it is appropriate for American investors and retirees to be asked to pay for Europe's expansive social safety net? If confirmed as Secretary, will you seek to protect Americans from having to pay the French and Italian tax, or seek to amend U.S. tax treaties with foreign governments to ensure that no foreign government can apply future extraterritorial taxes on securities transactions occurring within the United States?

I understand that the Treasury Department is studying the financial transaction taxes that have recently been enacted and proposed. I also understand that while the Treasury Department is continuing to analyze the full proposal for the EU financial transactions tax, the Treasury Department does not support the proposal because it would harm U.S. investors in the United States and elsewhere who have purchased affected securities. It is my understanding that the Treasury Department has raised these concerns with its European counterparts.

Question 8:

Late last year, the president signed a law to relieve U.S. airlines from paying a European carbon tax on the full length of an international flight when a short segment occurs within Europe. Will the administration take similar steps to shield U.S. investors and retirees from having to pay similar extraterritorial EU taxes on securities transactions within the United States?

Please see my answer to Question 7.

Question 9:

I am concerned that the President's Framework for Business Tax Reform could actually hurt smaller companies. Lowering the corporate tax rate and removing tax incentives without also cutting the individual tax rate would favor large C corporations over "pass-through entities" (typically small and medium-sized businesses organized as limited liability companies or S corporations) that pay the individual tax rate rather than the corporate rate. The plan would effectively raise those entities' taxes by removing their incentives while keeping their rates the same. Can you tell me how restructuring the tax treatment of a significant portion of the economy, the area where most jobs are created, will help spur economic growth?

I share your concern about small business taxation. This concern is reflected in the President's five principles for business tax reform, as laid out in last year's joint White House and Treasury report titled, The President's Framework for Business Tax Reform. Principal number 4 is "Simplify and cut taxes for America's small businesses: Tax reform should make tax filing simpler for small businesses and entrepreneurs so that they can focus on growing their businesses rather than filling out tax returns." Indeed, the plan outlined in the Framework would cut taxes for small businesses, including pass-throughs.

Question 10:

The Research and Development tax credit is an important tool to encourage innovation and job creation through the tax code. The Alternative Simplified Credit (ASC) was intended by Congress to broaden the number of companies that would be eligible to take advantage of the incentives provided by the R&D tax credit. From discussions with small and medium business owners and their tax advisors, it is clear that a significant roadblock to these companies taking the R&D tax credit is the fact that the Alternative Simplified Credit (ASC) is only available on original returns. In 2006, Congress expanded the availability of the R&D tax credit for businesses, making it easier for businesses, especially small and medium businesses to determine their eligibility for the credit. However, the Treasury and IRS through regulation in 2008 -- without any support in the statute -- greatly limited the benefits of the ASC by not allowing it for an amended return. This action by Treasury and IRS has significantly hamstrung the ability of small and medium businesses to take full advantage of the R&D credit. A GAO report on the R&D credit stated that this regulation, again, with no basis in statute, disproportionately disadvantages small and medium businesses. The president has been referencing the importance of the R&D credit to the nation. Why then would the administration inhibit the use of the credit to small and medium businesses? Will you seek to reverse these regulations as Secretary of the Treasury?

The Administration strongly supports the continuation of the Research and Experimentation (R&E) credit and has proposed to make the R&E credit permanent and to simplify and expand it. If confirmed, I would be happy to look into the specific issue you raise.

Question 11:

There are approximately 2,300 S Corporation Banks that pay individual income tax. What would be your position on higher income tax rates related to Subchapter S banks? Shouldn't Treasury consider the potential negative impact higher taxes will have these institutions?

All effects of taxes on business decisions need to be considered in determining tax policy, including tax rates. At the same time, the government has to raise revenue to fund needed goods and services.

Question 12:

The IRS in the past few years has been promising to get out refunds faster to taxpayers (as soon as 5-10 days). But recently, the IRS has stated that refunds could take as long as 21 days. I understand the IRS is blaming delayed refunds because they are checking for fraud, but while stopping fraud is important, I wonder if that is an easy excuse to cover more serious issues at the IRS. Will you commit for the next tax filing season that the IRS will go back to meeting its promise to get back refunds to taxpayers within the 5-8 day time frame. It seems this should be an urgency especially for those taxpayers who have simple returns and have just had over withholding for the year - - as it is really their money that in effect they have let the government use for a while.

I understand that in recent years, the IRS has made a number of improvements allowing more refunds to go out faster to taxpayers than ever before. At the same time, the IRS has added more security screens and reviews to help protect against an increase in refund fraud, particularly involving identity theft. The security features mean that some refunds get extra review, which means more time before a refund is released. This dynamic situation means there is no longer an easy "one size fits all" description for refund speed that applies to all taxpayers. If confirmed, I will work to ensure that IRS processes refunds as expeditiously and responsibly as possible.

Question 13:

I am concerned that in the past the IRS has been devoting resources to ideas like "a real time tax system" where the government will basically be doing your tax return for you instead of focusing on their main mission of processing tax returns and getting out refunds to those taxpayers who are owed money back. Will you commit as Treasury Secretary to allocate resources away from special projects of the Commissioner such as "real time tax systems" and focus on the IRS' core mission of processing tax returns and refunds and serving the taxpayer to help them comply with the tax laws?

I understand that the IRS is exploring a real time tax concept that would allow for more timely matching of information return data, such as W-2 wage information, received from third parties. The real time tax concept does not involve IRS providing pre-populated tax returns. Benefits of the real time tax concept include reduced taxpayer burden and improved compliance. If confirmed, I would be happy to examine how the IRS might fulfill its mission most efficiently.

Question 14:

Some commentators have stated that a delay in payment of IRS refunds will delay when the debt limit is reached? Are you aware of any discussions, emails, or memos within Treasury, the White House, or OMB regarding a delay in income tax refund payments and the impact that would have on when the debt limit is reach? If you are aware of such items, please disclose these.

Legislation was enacted earlier this year suspending the debt ceiling through May 18, 2013. Since I understand that most refunds will be paid prior to May 18, 2013, this year's tax refunds should not be affected by the debt limit.

Question 15:

Regarding IRS fraud efforts, I know the IRS has been publicizing their efforts to combat fraud. However, I have also been told that some simple efforts to identify fraud has been stopped in the past year. For example, I have been told that the IRS would informally investigate when multiple IRS refund checks were going to a single address or PO Box but that has been stopped for some reasons. Can you explain? It is also my understanding that the IRS has no formal activity that when other tax preparers know of another preparer likely committing fraud and inform the IRS, such whistleblowers are told that it will take several months until the IRS can check on this information and by that time the criminals have closed up shop and left town. Will you commit to the IRS devoting more resources to combatting fraud and taking such simple steps as I described to go after criminals immediately? Such steps will not slow refunds as the many IRS fraud efforts do now, but are commonsense ideas to combat fraud.

Preventing tax fraud and combating identity theft are critical to ensuring that our tax system is fair. It is my understanding that, in recent years, the IRS has undertaken an extensive effort to combat tax fraud and, if confirmed, I would continue to support the IRS in those efforts.

Question 16:

I am concerned about Earned Income Tax Credit (EITC) fraud. The IRS currently requires tax preparers to request if a taxpayer has documents to support aspects of qualifying for EITC. But the rules stop there and do not require a tax preparer to actually look at the documents. Also, if a tax preparer does look at such documents, then that preparer is required to make a copy of such document and store it for three years. Unfortunately, such rules then handicap good preparers because if they exercise good due diligence to combat fraud, they are then burdened with copying documents and

then having to store them for three years, but a bad preparer could just ask if the document exists and do nothing more and meets the current law IRS fraud rules. Such rules seem to discourage legit preparers from trying to combat fraud and then such rules do not apply at all to self-prepared returns done with computer software (which is my understanding a big issue in EITC fraud). Will you commit to reviewing some of these rules regarding EITC fraud and also not handicap preparers who want to help the IRS stop EITC fraud?

Preventing tax fraud—whether it is related to the EITC or otherwise—is an important goal, and, if confirmed, I look forward to working with you and this Committee on preventing fraud in a manner that minimizes the burden on compliant taxpayers.

Question 17:

I know the IRS is involved with litigation regarding its preparer regulation and requiring preparers to have identification numbers. However, I can understand why some preparers have issues with these rules because I was told that the IRS website on August 4, 2012, began selling Form W-12 information – apparently all 850,000 PTIN holders – including email addresses, phone numbers, professional credentials, and websites on a CD for just $35. IRS even offers an option for ordering a "customized listing" of preparers at additional cost. I know the IRS needs money, but this seems over the top - - is the IRS going to start selling other taxpayer information. Will you commit to reviewing this preparer regulation and insure that its focus is on stopping and catching bad preparers and not selling information and gauging with fees most of the small businesses who have been properly preparing tax returns for decades?

I agree that one of the primary goals of the return preparer program should be to ensure that taxpayers are receiving advice from qualified tax return preparers. If confirmed, I will work with the IRS to achieve this goal.

Question 18:

In general, small banks, which are the majority of financial institutions in Kansas, are overwhelmed by regulation, which severely detracts from their ability to serve their core customers. Yet, community banks weren't the cause of the financial crisis. The community banks have been hamstrung with a series of burdensome and costly new regulations. It looks like the regulatory balance has shifted too far toward regulation. How do we effectively regulate the financial services industry without adding unnecessary regulations that stymie or hurt the core function of banks?

I think we need to be attentive to the benefits and burdens of all regulations that we put forward, particularly in an area as important to the economy as financial services. For community banks, in particular, the authors of the Dodd-Frank Act understood that small banks did not cause the crisis and that rules should be written to treat them differently. Accordingly, they should not be under the enhanced and more stringent regulation appropriate for large institutions. If confirmed, I look forward to working with the Congress to help make sure that laws are

implemented in a way that preserves the functions of community banks and keeps capital flowing.

Question 19:

Can I have your assurances that you will make sure that the Federal Home Loan Banks are sufficiently strong to continue to achieve their core mission of providing liquidity and supporting community banks and thrifts?

I understand that the Federal Home Loan Banks (FHLBs) play a vital role in our housing finance system by helping smaller financial institutions effectively access liquidity. I look forward to engaging further on the issues related to the FHLBs if confirmed.

Question 20:

Concern has been expressed about the impact of the Dodd-Frank and the Basel III reforms on bank capital on the financial system and our economy broadly. I am concerned that failure to consider and balance the combined impact of all of the regulatory changes will have real consequences on our economy beyond just the obvious constraints on bank lending and the availability of credit. Do you still share these concerns? Furthermore, given the magnitude of all these rules and their impact on lenders and investors of all sizes, wouldn't it be prudent for the Financial Stability Oversight Council (FSOC) to examine the cumulative impact of ALL these reforms, and report to Congress on what this means for credit availability and economic growth?

I think we need to be attentive to the benefits and burdens of all regulations, particularly in an area as important to the economy as financial services. For example, the crisis revealed that banking institutions need more and better capital to help reduce the probability of a future financial crisis. We need strong standards that reflect on these lessons learned from the financial crisis, but we also must avoid the imposition of undue costs that could harm the U.S. banking system or impede lending that could negatively impact businesses, consumers, and the economy as a whole. It is important that Treasury continues its dialogue with the banking regulators as they work towards implementing the Basel III capital standards and the Dodd-Frank Act.

Question 21:

As part of the Troubled Asset Relief Program (TARP) Treasury has begun winding down the Capital Purchase Program (CPP). The majority of the approximately 300 banks remaining in CPP are community banks. Implementing and executing a program to exit the program has been a daunting task for these banks. Community banks were hit especially hard by turmoil in the financial industry, are under extreme regulatory pressure, and have little access to the capital markets. Treasury is implementing three approaches to helping these banks exit TARP, including repayments, restructurings, and auctions. Some of the community banks have had difficulty participating in the CPP auctions, particularly because they essentially are bidding to buy back their own shares. Several community banks have said that their bids to buy back their own stock were rejected as insufficient or

otherwise failing to comply with the auction procedures. A particular concern is a lack of communication from Treasury personnel on the auction procedures and on the reasons for the rejection of the bids.

a. **Can you assure the committee that the procedures for these auctions will be clearly communicated to the community banks, and that banks attempting to bid for their own securities will receive ample feedback from CPP staff on potential inadequacies in their bids?**

b. **What steps should Treasury take to ensure that it is transparent with regard to the prices agreed upon in the CPP auctions? Should Treasury disclose exactly how it determined that the offer from the financial institution was reasonable?**

I have had no involvement in Treasury's past communication process with institutions participating in the Capital Purchase Program (CPP). I agree that clear and transparent communication is critical to the success of CPP, including the auction process. I believe it is in the best interests of taxpayers and all parties, including the CPP institutions, that there continues to be a fair and competitive process and that CPP institutions be fully informed about the process. If confirmed, I would make sure Treasury continues to achieve that goal.

Question 22:

State insurance regulation has performed extremely well throughout the financial crisis, with very few insurer failures compared to other financial sectors. In fact, our domestic insurance industry has near record surplus, and is highly competitive here and abroad, despite the confluence of the financial crisis, unprecedented natural catastrophes and a weak economy over the past several years. Few, if any, U.S. insurers are truly systemically important. And U.S. insurers are competing effectively in many parts of the world, creating jobs at home. Considering all of these facts, would you agree that the Treasury should work with state regulators and the NAIC to oppose efforts to adopt one-size-fits-all global standards or bank centric standards that would be inconsistent with our proven effective insurance regulation or that would impose new layers of regulation or bank centric standards on U.S. insurance companies?

I have not yet had an opportunity to develop a detailed understanding of all issues pertaining to the regulation of insurance. I agree that international standards applicable to insurers should not only foster appropriate and balanced supervision for internationally active firms, but also foster a level playing field. If confirmed, I would engage with the full range of interested parties including the appropriate federal and state regulators, industry, consumers, and advocates.

Question 23:

When a regulation is determined through the review process with OMB to be economically significant will these regulations issued by Treasury/IRS, either on your own or with other Agencies, contain quantifiable (not just qualitative) description of benefits or costs to reach the economically significant effects ($100 million or more in any 1 year)? So far on

regulations you've already issued with HHS and Department of Labor, I have heard that you'll get back to us/that you're meeting minimum requirements/etc. but you have yet to give us the numbers that quantify the $100 million threshold. Can we get those estimates? Or if that is not possible, will you explain why the Administration is unable to quantify the costs/benefits?

I agree that assessing the potential economic costs and other burdens imposed by economically significant regulations on the public is an important part of the rulemaking process. For any rule that is covered by E.O. 12866 and has an annual economic impact greater than $100 million, Treasury analyzes the costs and benefits of the proposed rule and its alternatives, consistent with OMB Circular A-4. If confirmed, I would work to ensure that economically significant regulations contain a quantifiable description of the costs and benefits, whenever possible. In the case of IRS regulations, however, I understand that pursuant to longstanding practice across several Administrations, IRS rules generally are not subject to E.O. 12866 review.

Question 24:

During briefings by Treasury/IRS in implementing PPACA regulations staff have been unable to define why a regulation is considered significant, even when the regulation has been determined to be significant, or has met the economic threshold set by OMB. This is an obvious concern, when staff briefing the hill do not know specifics in their own regulations. Will future significant regulations issued by your Department, either on your own or with other Agencies, include a clear definition (such as which of the four requirements are met) for why a regulation is considered significant?

In most instances, Treasury regulations implementing the Affordable Care Act have not been designated as significant regulatory actions. I understand that pursuant to longstanding practice across several Administrations, IRS rules generally are not subject to E.O. 12866 review. Accordingly, ACA tax regulations have not been designated as significant regulatory actions. In one instance, I understand that ACA regulations issued jointly by the Department of Health and Human Services and Treasury were designated as significant. In that case, the regulations (which implement section 1332 of the ACA) are not tax rules promulgated by the IRS, and OMB concluded that they raise novel legal or policy issues.

Question 25:

We requested during a briefing on the Employer Mandate rule on January 17 an explanation for why this rule is NOT considered significant. During previous briefings by DoL and Treasury/IRS staff indicated that all PPACA regulations are expected to be significant because they raise novel legal and policy issues. We have not yet received a response. Why does this regulation NOT meet one of the 4 requirements to be considered a significant regulatory action, specifically if it does not meet the novel legal and policy concerns?

Please see my answer to Question 24.

Question 26:

On many regulations implementing the PPACA statute stakeholders are being given the minimum amount of time to respond (30 days) to the sometimes hundreds of pages of regulations, often with many of these regulations being issued in the same week. In these instances the Administration has had months if not years to draft and review and OMB is given months to review as well. Will future regulations give stakeholders more than a minimal amount of time to review? It has been suggested but other nominees before Finance Committee that 60 days would be a more reasonable timeframe?

The amount of time for review and comment on a regulation depends on a number of factors, including the complexity of the regulation and the deadline for implementing it. It is my understanding that most Treasury regulations have a comment period between 60 and 90 days, consistent with Executive Order 13563. In limited instances, Treasury regulations have had a 30-day comment period.

In addition, we are getting feedback that many stakeholder groups do not believe the Administration will take into account their comments when issuing the final regulations. We would like to point to the Employer Responsibility rule as an example. Section X in the preamble seems to indicate a belief, which has been verbally communicated during briefings, that few comments are expected on the NPRM, and that few changes would be expected. However the traditional regulatory process as described in both statute and executive order, calls for notice, comment, review and consideration of comments and issuing of a final rule. What is being done to address this very troubling concern?

I value stakeholder involvement in the regulatory process, and I believe that it is an important part of developing regulations that are effective and do not impose unnecessary burdens on the public. It is my understanding that, in issuing regulations under the ACA, Treasury has engaged in extensive outreach with stakeholders during the entire regulatory process and has carefully considered each comment received in drafting final regulations.

Question 27:

As an additional consideration the Treasury/IRS and many of the Departments implementing PPACA have often referred to sub regulatory guidance documents such as bulletins, FAQs, etc. to demonstrate stakeholder participation the regulatory process. This raises several concerns as sub regulatory guidance does not hold the force of law, generally does not reach, through notification and other means, the same amount of stakeholder participants, and is outside the traditional regulatory process, so as to confuse stakeholders with limited resources, both time and money, on where they should place their focus. Why is this Administration deviating from the normal rulemaking process and can we ever expect it to return to the more traditional notice and comment rulemaking? If not, do you plan to formally notify stakeholders of the new emphasis by this Administration on sub regulatory actions over the legally binding rulemaking process?

In developing regulations, the Treasury Department often obtains input from stakeholders through a variety of means including, but not limited to, the formal notice and comment process. The Treasury Department and the IRS for decades have used revenue rulings, notices, and similar subregulatory guidance to supplement, rather than to substitute for, the usual rulemaking process. Before issuing proposed regulations on the employer responsibility provisions for comment, for example, the Treasury Department and IRS published several detailed notices suggesting possible approaches that were under consideration and obtaining extensive public comments on each of them. Subregulatory guidance is also used to provide answers in an efficient manner that taxpayers can rely on, even though they are not binding on taxpayers in the way that regulations may be. This is by no means unique to the Affordable Care Act.

Senator Enzi

Question 1:

I hope that you and the Obama Administration would lend your support to the Finance Committee for taking up tax reform in the near term. Our tax code is too long and too complicated, and we need to make it simpler and fairer for all taxpayers. That being said, we must ensure that any tax reform effort includes a period of transition so that people and businesses can plan accordingly. In particular, I'm sure you would agree that we don't want to implement a sudden change that could put a company out of business and add people to the unemployment rolls. Do you agree that appropriate transition, i.e., phase-in's and phase-out's of certain provisions, is needed when we undertake tax reform?

Yes, I agree that provisions designed to ensure a smooth transition can be appropriate when adopting major tax changes.

Question 2:

On February 22, 2012, the Obama Administration unveiled a business tax reform framework that calls for lowering the statutory corporate tax rate to 28 percent. The framework leaves many of the details on a corporate tax overhaul to Congress, including the roster of corporate tax expenditures that would be eliminated in order to reduce the rate to 28 percent and whether business tax reforms would apply to pass-through entities. I am particularly concerned that small businesses, many of whom are structured as pass-through entities, have recently been saddled with a tax increase (because they are taxed under the individual income tax system) and that a corporate tax reform effort could take even more money out of their pockets. While I don't believe we should do corporate-only tax reform, if that situation arises would you agree that we need to ensure that pass-through businesses are held harmless?

I agree with the President's five elements of business tax reform. One of these elements is that business tax reform should simplify and cut taxes for America's small businesses so that tax filing is simpler and entrepreneurs can focus on growing their businesses rather than filling out tax returns. I also agree with the approach taken in the President's Framework for Business Tax Reform, which would expand appropriate tax benefits for small businesses in order to make the tax code simpler and to offset the effects of general business base broadening. Indeed, the Framework suggested a net tax cut for small businesses, including small pass-throughs.

Question 3:

The business tax reform framework released by the Obama Administration in February 2012 appears to call for retention of the worldwide system of taxing foreign earnings. The framework states the following:

> **"The Administration believes that a *pure territorial system* could aggravate, rather than ameliorate, many of the problems in the current tax code. If**

foreign earnings of U.S. multinational corporations are not taxed at all, these firms would have even greater incentives to locate operations abroad or use accounting mechanisms to shift profits out of the United States. Furthermore, such a system could exacerbate the continuing race to the bottom in international tax rates." (note: italics added for emphasis)

Since you and I last spoke in January, I'm sure you and your staff have had a chance to review both the international tax reform bill I introduced last year (S. 2091, the *United States Job Creation and International Tax Reform Act of 2012*) as well as the international tax reform discussion draft released by House Ways and Means Committee Chairman Dave Camp in 2011. Upon a careful reading, you'll note that neither of those proposals calls for a "pure" territorial system. On the contrary, both include strong base erosion provisions (i.e. provisions to ensure that companies aren't able to easily strip taxable earnings out of the United States.) Do you still believe, as you indicated to me last month, that there is room for a conversation on updating our international tax system to a territorial system (and NOT a "pure" territorial system)?

The President's Framework for Business Tax Reform supports a hybrid approach that reduces incentives for companies to shift profits and investment to low-tax countries, puts the United States on a more level playing field with our international competitors, and helps end the global race to the bottom on corporate tax rates—while also making American companies more competitive globally. There is considerable debate as to how to reform the international tax system, but I believe that there is common ground on this subject, including a mutual concern about preserving the U.S. tax base by reducing incentives that encourage the shifting of investment and income overseas, and making the United States more competitive globally. I look forward to working with the Committee on a bipartisan basis to develop approaches to international taxation that will ensure the United States will retain and attract high-quality jobs.

Question 4:

In 2007, the Treasury Department and the Internal Revenue Service (IRS) issued guidance (Notice 2007-55) impacting the Foreign Investment in Real Property Tax Act (FIRPTA) rules. In particular, the guidance reversed well-established law regarding liquidating distributions. More specifically, the guidance provided that liquidating distributions of a real estate investment trust (REIT) should be treated as a sale of real estate subject to the FIRPTA tax rules rather than a sale of stock.

It's my understanding that former Secretary Geithner and his staff have been looking into this issue. If confirmed, would you commit that you and your staff will expedite the completion of the work that was started by Secretary Geithner on this FIRPTA issue?

I understand that FIRPTA generally subjects foreign investors' gains from the sale of U.S. real property to the same net-basis taxation that is imposed on U.S. taxpayers. I have not yet had an opportunity to fully develop a position on Notice 2007-55 but, if confirmed, look forward to working with the Committee to create a fair and efficient tax code so that foreign and domestic investors in U.S. real property are on a level playing field.

Question 5:

I am concerned about the "balanced" approach (i.e., additional revenues and spending cuts) that the President states is necessary to get our fiscal house in order and potentially to replace the upcoming sequester (across-the-board spending cuts).

The president's proposal to avert the sequester, set to go into effect March 1, 2013, exemplifies the problem we face here in Washington: raising taxes rather than making the important choices on spending reforms. Reducing federal spending must be the focus if we are to get back on a sustainable fiscal path. Carefully cutting spending, rather than finding more ways to tax American families and businesses, will put America on a path to fiscal recovery.

With high unemployment and a sluggish economy, I am concerned that higher taxes will put the brakes on an economic recovery that may be on the verge of accelerating. Do you believe additional higher taxes in the near term will have a negative impact on economic growth?

The President is committed to an approach to deficit reduction that includes both spending cuts and revenue increases that ask the wealthiest Americans to pay their fair share. Implementing fiscal consolidation in a balanced way over time coupled with measures that support economic growth in the near term is the best approach to address our fiscal challenges and grow the economy.

Question 6:

Our debt is out of control at more than $16 trillion, and the Senate hasn't had a budget to spell out its fiscal priorities in almost four years. After four years of trillion dollar deficits, the current budget situation cannot continue. The budget and economic outlook for the next decade released by the Congressional Budget Office last week indicates that our nation's debt will continue to grow. And the cause of the debt and deficits is entitlement spending. Are you willing to work with the members of this committee in the near term to truly address the drivers of our long-term fiscal deficits and debt – the huge growth in entitlement spending?

The President has expressed a willingness to work with Congress to make tough decisions to ensure the sustainability of the entitlement programs and, if confirmed, I would look forward to working with members of this committee to reach such an agreement. There has been substantive progress on reducing deficits and additional deficit reduction has been achieved in the ten-year budget window. Going forward, I understand that a number of provisions of the Affordable Care Act will restrain Medicare spending growth, and the FY 2013 Budget also proposed a number of other reforms that improve the efficiency Medicare spending.

Question 7:

I have been working with Senators on both sides of the aisle for many years on the issue of sales tax collection. More specifically, my bill, the *Marketplace Fairness Act of 2013*, empowers states to choose to collect already existing sales taxes on all purchases, regardless of whether the sale was online or in store. If states want to keep things the way they are, it's a state's choice. I believe we are very close to passing this bill and closing the loophole that distorts the American marketplace by picking winners and losers, by subsidizing some businesses at the expense of other businesses, and by subsidizing some taxpayers at the expense of other taxpayers. I believe all businesses and their retail sales *and* all consumers and their purchases should be treated equally and fairly. The President has been very explicit in his call to close tax loopholes. Do you agree that this tax loophole should be closed?

I agree that the system of collecting income, sales, and use taxes by state and local governments should be made simpler and provide clear, bright line rules for state and local governments and taxpayers to follow. Simplifying the tax system and clarifying the rules will increase fairness and tax compliance, while reducing the burdens on the sellers and employers that would collect and remit such taxes.

Question 8:

Middle-income families have endured great economic hardships since the 2008 financial collapse. At a forum on government accountability in 2011 you highlighted the challenges the collapse created by stating, "Millions of hardworking men and women were losing their jobs. Home values and retirement accounts were virtually wiped out." Current unemployment and wages remaining flat continue creating challenges for retirement savers. Congress, in the Tax Code, has long favored increased access and lower costs for retirement saving. Individual Retirement Accounts (IRAs) are an example of this policy.

The Department of Labor (DOL) is working on re-proposing a rule that could cross Treasury's jurisdiction. It will likely redefine Tax Code provisions related to retirement savings. The Labor Department's original proposal impacted the Tax Code in a manner that would have reduced access and increased costs for IRA savers. That result directly contradicts the policy set by Congress in the Tax Code, which the Treasury Secretary has a duty to enforce.

As Treasury Secretary, how would you execute Executive Order 13563 to ensure close "coordination across agencies" is taking place between the DOL, the Internal Revenue Service (IRS), and other affected agencies like the Securities and Exchange Commission (SEC) to protect Congress' Tax Code policy of encouraging affordable access to IRAs and incentivizing saving for retirement?

If confirmed, I would work to implement both the letter and the spirit of this Executive Order, which directs Federal agencies to work together to prevent redundant, inconsistent, or overlapping regulatory requirements.

My understanding is that the specific DOL rule to which your question refers is a proposal, which was withdrawn for further consideration, relating to the meaning of the term "fiduciary" under ERISA, a definition that also applies for purposes of certain prohibited transaction rules under the Tax Code. If confirmed, I will encourage Treasury staff to work with DOL to avoid any unnecessary burdens and overlapping or redundant regulation in the IRA market.

Question 9:

Retirement savings is covered in the law under ERISA, the Tax Code, and various securities laws. Depending on the issue, the Department of Labor, Treasury, and the SEC all could be involved in retirement savings regulation. ERISA's Conference Report directed the Administration "not to disrupt the established business practices of financial institutions" and directed the Secretaries of Labor and Treasury to ensure brokerage services continued (P.L. 93-406, at 309). Congress further applied this principle to the SEC in Dodd-Frank by requiring any "uniform fiduciary duty" imposed on brokers and investment advisors to be business-model neutral. (P.L. 111-203, Sec. 913(g)).

You've made clear in previous testimony that your financial industry experience is unrelated to brokerage or investment advisory services. In fact, you characterized your experience as being a "manager." That same characterization could also describe the Treasury Secretary's duties. So, you're experience in the industry should serve you well should you be confirmed.

Competition between large or small brokerage and investment advisory businesses leads to more access and lower costs for retail retirement savers. When the Labor Department, the SEC, or any other agency promulgate retirement savings regulations impacting Treasury's jurisdiction, would you as Secretary work to protect ERISA's and Dodd-Frank's stated intent "not to disrupt the established business practices of financial institutions" and establish business-model neutral regulation?

I support the principles articulated in the ERISA conference report and in Dodd-Frank, and would work to advance those principles with respect to matters within the Treasury Department's exclusive or shared jurisdiction. If confirmed, I will encourage Treasury staff to continue to coordinate with these other agencies on matters within their jurisdiction that may also have effects on matters within the Treasury's jurisdiction.

Question 10:

IRAs are the fastest growing source of retirement savings in the United States, holding a total of $4.7 trillion in 47 million accounts. As Treasury Secretary that means you would be responsible for managing a retirement savings vehicle, the IRA, that holds more assets than Defined Benefit plans or Defined Contribution plans. The Department of Labor is currently working on re-proposing a rule that could impact Treasury's jurisdiction over IRAs by redefining certain Tax Code provisions. The Labor Department's original proposal impacted the Tax Code in a manner that contradicted Dodd-Frank's business-

model neutral policy because it would have effectively compelled broker-dealers marketing IRAs to adopt a fee-based advisory business model.

According to an SEC staff report that studied imposing a "uniform fiduciary rule" under Section 913 of Dodd-Frank, "If...broker-dealers elected to convert their brokerage accounts from commission-based accounts to fee-based accounts, certain retail customers might face increased costs, and consequently the profitability of their investment decisions could be eroded, especially accounts that are not actively traded." In short, eliminating commission-based representatives harms certain retail investors. Most IRAs are just such accounts with 88 percent of IRA investors using a commission-based brokerage to service their account.

The Department of Labor is developing a new rule that will likely impact IRA Tax Code provisions within your jurisdiction. How would you work as Treasury Secretary to ensure the Tax Code complements Dodd-Frank's business-model neutral policy so retirement savers continue having affordable access to IRAs without increased costs?

If confirmed, I would encourage the Departments to work together to further the common objective of assuring that retirement savers have access to affordable IRAs without unnecessary costs or burdens.

Question 11:

One of the most positive elements of the US economy is the development of American oil and natural gas. Its success positions America to be more secure in its energy supply than it has for many decades. Yet, once again the Administration wants to raise taxes on oil and natural gas producers. One of the tax increases it wants is changing the deductibility of intangible drilling and development costs. These are deductions comparable to those available for research and development costs. Loss of this deduction for independent producers would reduce their available capital by about 25 percent. Why does the Administration seek to diminish American oil and natural gas production and suppress one of the brightest areas of American industry activity?

The Administration is committed to an approach that develops all forms of American energy. This commitment includes the safe and responsible production of our oil and natural gas resources. Today, domestic oil production is at the highest level in nearly a decade, while oil imports have fallen to the lowest level in nearly 20 years. Thanks to pioneering new technologies developed in the United States we are also now the world's leading producer of natural gas. As production has increased, it has boosted our manufacturing, dramatically reduced prices, and created more jobs for the American people.

The fossil fuel tax preferences the Administration proposes to repeal distort markets by encouraging inefficient investment. To the extent these subsidies crowd out investments in other energy sources, they are detrimental to long-term energy security and are also inconsistent with the Administration's policy of reducing greenhouse gas emissions and encouraging the use of

renewable energy sources. Moreover, the inefficient investments generated by these subsidies result in underinvestment in other, potentially more productive, areas of the economy.

Question 12:

Another tax increase that the Administration seeks relates to the oil and natural gas depletion deduction. All minerals are allowed to use percentage depletion. The Administration seeks to eliminate it for oil and natural gas. For these minerals, because percentage depletion is only available for independent producers and royalty owners and only for the first 1,000 barrels per day of production, it is a small business and royalty owner issue. Additionally, because these small producers have little or no access to bank capital, they must raise their investment capital from reinvested income and from private investors. The Administration also proposes to repeal the passive loss exclusion that applies to oil and natural gas production investments. The combination of the Administration's proposals on intangible drilling and development costs, percentage depletion for oil and natural gas production and the passive loss exclusion will cripple these small businesses and the royalty owners who depend on them – royalty owners who are typically farmers and ranchers and retirees. Why does the Administration seek to target these small businesses, farmers, ranchers and retirees?

When considering the elimination of fossil fuel subsidies, the Administration carefully considered the impact that their elimination would have on the overall economy. Our analysis indicates that changes in domestic fossil fuel production costs resulting from repeal of these subsidies would have little effect on U.S. energy prices. The subsidies for oil do not contribute significantly to energy security or significantly reduce our vulnerability to oil price shocks because oil is an internationally traded commodity, and its price is determined on the world market.

Tax subsidies that are not designed to correct an existing distortion or market failure lead to an over allocation of resources to the tax-favored industries and an under allocation of resources to other industries. The tax subsidies that are currently provided to the oil and gas industry lead to inefficiency by encouraging an overinvestment of domestic resources in this industry, to the detriment of other industries. Removing this distortion would improve overall economic efficiency.

Senator Cornyn

Question 1:

Total federal debt now exceeds 100 percent of GDP. Over the next 10 years, CBO's baseline shows that debt will grow by $9 trillion and reach a total of $26 trillion by 2023.

Do high levels of debt make this country more vulnerable to fiscal crises?

The statistic that you cite – gross federal debt – includes intra-governmental borrowing. Hence, it reflects transactions within the government, in addition to what the government owes outside creditors. Debt held by the public amounts to 72.5 percent of GDP, which measures the debt owed by the government relative to the size of the economy.

The federal government continues to borrow at historically low interest rates, reflecting investors' confidence in the government's ability and commitment to meet its obligations. The Administration remains committed to reducing deficits and stabilizing the debt as a share of the economy, and has proposed measures to achieve the necessary deficit reduction in a balanced way over the next decade.

Question 2:

How would a fiscal crisis affect the U.S. economy?

If investors lack confidence in the government's ability to borrow it could negatively affect Treasury's interest rates and borrowing costs. For example, during the debt ceiling debate in 2011, investors, businesses, and consumers all lost confidence and the markets were rattled.

Question 3:

Would the higher debt from paying higher interest rates slow the economy?

Interest rates are currently at historically low levels and are expected to remain low for an extended period of time. As we contemplate the effect of rising interest rates, it is important to consider the economic context in which that would occur. An increase in future interest rates is typically forecast as a result of a strengthening economy. In that context, the strengthening economy improves the fiscal situation and improves the debt position. Indeed, the Congressional Budget Office (CBO) projects rising interest rates in the medium term, reflecting an acceleration in economic growth.

Question 4:

In his 2010 State of the Union address, the President said, "Understand if we don't take meaningful steps to rein in our debt, it could damage our markets, increase the cost of borrowing, and jeopardize our recovery." But since the President has been in office, the

debt has grown by almost $6 trillion or by 55 percent and is now larger than the economy. Therefore, it appears the President has not made any meaningful steps since then.

What steps do you believe the Administration must take to reverse this recent explosion of debt?

The Administration has been clear in its commitment to putting the nation's finances on a sustainable path. The Administration and Congress have made substantial progress over the past two years, enacting $2.5 trillion in deficit reduction to be implemented over the next ten years, and the budget deficit has fallen, especially relative to the gradually improving economy. Last year, the President put forward a plan in the FY 2013 Budget that would bring total deficit reduction over the 10-year budget window to $4 trillion, stabilizing the debt as a share of GDP before the end of the decade.

Question 5:

The nation's debt is also currently over $16 trillion and exceeds our Gross Domestic Product. Do you think the debt is a national security concern? If so, shouldn't we prioritize balancing our budget and begin to pay down the debt?

As you know, the statistic that you cite – gross federal debt – includes intra-governmental borrowing. Hence, it reflects transactions within the government, in addition to what the government owes outside creditors. Debt held by the public amounts to 72.5 percent of GDP, which measures the debt owed by the government relative to the size of the economy.

Our immediate goal has been and should continue to be to enact a plan that will put our nation's finances on a sustainable course over the next decade in a balanced way that protects and enhances our economic recovery. A key indicator of fiscal sustainability is a stable debt-to-GDP ratio. The deficit reduction measures the President proposed in his FY 2013 Budget would stabilize the debt as a share of the economy before the end of this decade.

Question 6:

Do you agree that debt can put a drag on the economy causing lower wages, greater harm to human welfare and higher risk of fiscal crisis?

Following the financial crisis and severe recession, fiscal support for the economy remains important as the economy recovers and growth is restored. The federal government continues to borrow at historically low interest rates, reflecting investors' confidence in the government's ability and commitment to meet its obligations. Given these low interest rates, and low private sector mortgage and commercial borrowing rates, there is little evidence that federal borrowing is crowding out private sector activity or investment. Maintaining the credibility of Federal government borrowing and reducing any potential impact on the economy by stabilizing the debt-to-GDP ratio and reducing the deficit as a share of the economy continues to be a high priority.

Question 7:

Is our debt causing these things right now?

Interest rates are currently at historically low levels and are expected to remain low over the period of both private and government forecasts. If confirmed, I am committed to working with Congress to chart out a credible path toward long-run fiscal sustainability. This commitment will help to maintain the confidence of investors in our debt, as well as ensuring the strength of the ongoing recovery.

Question 8:

House Minority Leader Pelosi recently said, "It is almost a false argument to say we have a spending problem." Of course, this ignores the fact that we have had four consecutive years of trillion dollar plus deficits and spending remains near a post-WWII record level.

Do you agree with Leader Pelosi?

We have fiscal challenges arising from years of spending and revenue decisions, as well as from the financial crisis and recession.

Question 9:

If not, what are the Administration's plans to solve our spending problem?

The Administration supports a balanced approach to deficit reduction. The President has proposed deficit reduction totalling $4 trillion, including $2.5 trillion of already enacted savings, which is sufficient to stabilize the debt as a share of the economy. These proposals represent a balanced approach of additional spending cuts and modest revenue increases. If confirmed, I look forward to working with the Congress toward achieving these goals.

Question 10:

Do you believe that Congress should surrender its authority to establish the debt limit of the United States, effectively giving the Administration a blank check to run up the debt as much as possible?

I would support an extension of the provision that was included in the Budget Control Act of 2011. This provision allowed the President to periodically request an increase in the debt limit. It also provided that Congress could disapprove of any increase in the debt limit, via the enactment of disapproval legislation.

Extending this provision would not permit the executive branch to spend money or collect revenues without prior congressional approval. The debt limit does not authorize new spending commitments; it simply allows the government to finance existing legal obligations that Congresses and Presidents of both parties have approved in the past.

Question 11:

Do you agree with the views expressed by some members of the Democrat leadership that the 14th Amendment gives the President unilateral power to raise the debt ceiling without going through Congress, effectively giving the President the power to ignore the debt ceiling? If not, why not?

No, I do not believe the 14th Amendment gives the President the unilateral power to ignore the debt ceiling.

Question 12:

Do you believe that the law can or should be used to facilitate the production of platinum coins for the purpose of avoiding an increase in the debt limit?

No, I do not believe the law can or should be used to produce platinum coins for the purpose of ignoring the debt limit.

Question 13:

If you could draft a tax code from scratch, what percentage of total income taxes and total tax revenue do you think should be borne by the top 1% of income earners?

The specific answer to your question depends on all the features of the tax system. The tax code should raise sufficient revenue to fund the goods and services demanded by the American public. The tax code should support the middle class and promote economic growth. The system should be fair and simple. And the goal of fairness must be balanced against the goal of efficiency – our tax code should not distort beneficial economic activity and marginal tax rates should not be too high. Former Secretary Geithner has stated, and I agree, that we should strive to have a tax code that is at least as progressive as the Administration's FY 2013 Budget Policy. Moreover, high-income families should not face tax burdens that are lower than those faced by middle-income families.

Question 14:

If you could draft a tax code from scratch, what percentage of total income taxes and total tax revenue do you think should be borne by the lowest quintile of income earners?

The specific answer depends on all the features of the tax system. The tax code should raise sufficient revenue to fund the goods and services demanded by the American public. The system should be fair and simple. And the goal of fairness must be balanced against the goal of efficiency – our tax code should not distort beneficial economic activity and marginal tax rates should not be too high. Former Secretary Geithner has stated, and I agree, that we should strive to have a tax code that is at least as progressive as the Administration's FY 2013 Budget Policy.

Moreover, high-income families should not face tax burdens that are lower than those faced by middle-income families.

Question 15:

Can you estimate what the effective total tax rates are for the bottom, middle, and top quintiles of income earners?

The Congressional Budget Office estimates that in 2009 total effective federal tax rates for these groups were 1 percent, 11.1 percent, and 23.2 percent respectively. To put this into context, these groups received 7.7 percent, 13.8 percent, and 50 percent of pre-tax income.

Question 16:

A number of nonpartisan analysts, including the Joint Committee on Taxation, have told Congress that a number of the new Obamacare taxes will hit taxpayers making less than $200,000/$250,000 a year. These taxes include the individual mandate excise tax, the elimination of the ability to use pre-tax funds in FSAs/HRAs to pay for over-the-counter medicine, the new FSA cap, the reduction in the itemized deduction cap for medical expenses, the higher HSA withdrawal penalty, the tanning services tax, and the "Cadillac insurance" plan tax. Do you agree that Obamacare imposes higher taxes on those making less than $200,000/$250,000 a year?

The Affordable Care Act provides significant tax cuts and other large benefits to middle income families. In addition to hundreds of billions of dollars in tax cuts to help families afford health insurance, it provides other crucial help for middle-class families, such as prohibiting insurance companies from dropping their coverage if they get sick or refusing to cover pre-existing conditions. As a result, it is misleading to consider the impact of particular provisions in isolation.

Question 17:

Economists are in general agreement that there is no way for Washington to rein in the deficit or start reducing our debt unless we reform our entitlement programs.

Do you think we should focus our attention on reforming and strengthening Medicare, Medicaid and Social Security?

Long-run entitlement reform to ensure solvency for those who rely on these programs will require difficult choices. The Administration is focused on addressing these challenges in order to assure that we fulfill our commitments to our seniors and others who rely on these programs. The major reforms the President achieved in the Affordable Care Act demonstrate this commitment, though there is still more work to do. Likewise, his most recent budget proposed significant savings in health programs, including Medicare. We must work together to ensure that current and future generations of Americans can count on these vital programs, and, if confirmed, I look forward to working with the Congress to secure these reforms.

Question 18:

What concrete proposals would a Lew-run Treasury Department offer for entitlement reform?

Please see my answer to Question 17.

Question 19:

In its long-term budget outlook in 2012, CBO estimated that between now and 2037, 75 percent of the growth in entitlement spending will be driven by demographic factors associated with the retirement of the Baby Boomers and general aging of the population. In other words, controlling health care cost inflation isn't enough to address the rapid growth in entitlement spending. Do you agree with the CBO's analysis?

Please see my answer to Question 17.

Question 20:

One year ago, then-Treasury Secretary Geithner told the House Budget Committee, "We're not coming before you to say we have a definitive solution to our long-term problem. What we do know is we don't like yours." This was in response to the concerns expressed by House Budget Chairman Ryan about the Administration's lack of a plan to meet the challenges of rising debt and the growing unfunded obligations of our entitlement programs.

Mr. Lew, can you tell the Committee if the President's budget, which is already late and is not expected until next month, will include a definitive solution to our long-term problem?

This question refers to the Administration's FY 2014 budget, which has not yet been released. If confirmed, I look forward to addressing this and related questions once that budget is released.

Question 21:

If not, why not?

As noted, this question refers to the Administration's FY 2014 budget, which has not yet been released. If confirmed, I look forward to addressing this and related questions once that budget is released.

Question 22:

When can Congress expect the Administration to offer a definitive solution to the fiscal challenges facing the nation?

The Administration is committed to putting the nation's finances on a more sustainable path. This process begins by reducing the deficit by an amount sufficient to stabilize the situation, that is, by stabilizing our debt relative to the size of the economy. Last year, the President put forward a plan in the FY 2013 Budget that would reach this goal. The policies he proposed would bring total deficit reduction over the 10-year budget window to $4 trillion, including the $2.5 trillion in deficit reduction achieved together with Congress since 2011.

Question 23:

On January 11, 2013, the Treasury Inspector General for Tax Administration (TIGTA) issued a report addressing human capital needs at the IRS. The IRS estimates that under PPACA, "at least 42 provisions will either add to or amend the tax code and at least eight will require the IRS to build new processes that do not exist within current tax administration."

In addition, the report notes that the IRS FY 2012 budget made the assumption that 856 full time equivalents (FTEs) would be dedicated to implementation of PPACA. The FY 2013 IRS budget includes no such FTEs funded by the Department of Health and Human Services.

With respect to PPACA, some of the IRS' responsibilities include administration of the premium tax credits in the exchanges, which are supposed to be up and running by October 1st of this year, along with implementation of the individual and employer mandates. This seems like an insurmountable challenge given a lack of 856 assumed employees.

As Treasury Secretary, how do you think the IRS will be able to implement all of these new tax provisions?

I am not yet familiar with the specific details of IRS's allocation of resources. However, if confirmed, I will look into the concerns that you raise here. In the interim, I understand that the IRS is working hard to stretch current resources to be ready to implement these provisions when they take effect.

Question 24:

Section 1401 of PPACA specifically provides that advanced premium tax credits are available for individuals "which were enrolled in through an Exchange established by the State under 1311 of the Patient Protection and Affordable Care Act." Many states, like my home state of Texas, have declined to set up a state exchange and will instead let the federal government set up an exchange. The IRS issued a regulation last year stating that these premium tax credits will be provided to individuals enrolled in both state and federal exchanges.

Do you argue with the plain text of the statute that specifically states the tax credits are available only for those in state-hased exchanges?

I believe that Treasury has a responsibility to implement the laws passed by Congress in a careful and thoughtful manner. Although I was not involved, my understanding is that for this regulation, Treasury's Office of Tax Policy (OTP) and the IRS followed their standard process for drafting, approving, and publishing tax regulations generally. I also understand that the public submitted numerous written and oral comments in response to the proposed regulation; that both OTP and IRS reviewed each comment carefully; that for this issue, OTP and IRS concluded that the statute should be best suited to resolve this matter.

Question 25:

The Treasury Department plays a unique and crucial role in protecting our national security and complementing our foreign policy goals. The fight against terror finance and illicit financing of weapons proliferation and rogue regimes are key tasks for the Treasury Department. The U.S. cannot afford to lose track of these issues as we deal with the fiscal issues and economic challenges facing our country.

Perhaps no foreign policy challenge is as pressing as preventing Iran from acquiring a nuclear weapon. As the lead agency implementing U.S. economic sanctions, the Treasury Department is central to U.S. efforts to stop Iran's nuclear quest. While sanctions are having a dramatic impact on the Iranian economy, they have yet to change Iran's nuclear calculus. It is therefore crucial that the U.S. seek to dramatically increase the economic pressure on the regime in Tehran.

Do you think that sanctions can prevent Iran from developing nuclear weapons?

I believe there is time and space to pursue a negotiated resolution that denies Iran a nuclear weapon, but that the window for such negotiations is narrowing. I see sanctions as critically important in demonstrating to the Iranian regime that it has a clear choice – it could enjoy the benefits of inclusion in the international financial system that could come from meeting its international obligations, or it will face increasingly powerful and painful sanctions by continuing to pursue a nuclear program.

Question 26:

How would you define the role of the Treasury Department in stopping Iran's nuclear ambitions?

I believe the Treasury Department performs a critical role in the Administration's efforts to halt Iran's nuclear ambitions by imposing increasingly powerful financial and economic pressure on Iran, thereby presenting the regime with the starkest choice possible. If confirmed, I am committed to sharing with Congress my views about potential additional actions if Iran continues to defy the international community over its nuclear program during my tenure.

Will you be prepared to share with this Committee your candid views about our requirements for action?

If confirmed, I am committed to sharing with Congress my views about potential additional actions as long as Iran continues to defy the international community over its nuclear program.

Question 27:

What additional sanctions do you believe are needed to succeed in our effort to thwart Iran's nuclear quest?

The President has made it very clear that it is unacceptable for Iran to have a nuclear weapon, and that all options must be on the table to achieve this objective. In service of this objective, the Treasury Department has imposed increasingly robust economic and financial sanctions on Iran, including sanctions that restrict Iran's access to its foreign exchange reserves and impair its balance-of-payments position; that target entities and individuals involved in proliferation, terrorism, human rights abuses, and regional destabilization; that identify and expose Iranian efforts to deploy deceptive schemes to evade sanctions; and, that cut off from the U.S. financial system those who try to assist Iran in these efforts. I firmly believe that the imposition and implementation of robust economic sanctions is critically important to achieving the President's policy of denying Iran a nuclear weapon, and due to the intensive, collaborative efforts of the Congress and this Administration, as well as steps taken at our urging by partners around the world, the current sanctions regime on Iran is unprecedented in terms of scale, scope, and impact. If confirmed, I will support Treasury's efforts to implement fully existing sanctions and, as necessary, I would support additional actions that advance our shared objective of stopping Iran's nuclear ambitions.

Question 28:

Can you tell me your view on the European Financial Stability Facility? What is it and is it working?

Europe is in a more stable position today because Euro Area authorities have put in place a powerful set of financial tools in support of member states undertaking difficult reforms. One of those tools is the European Financial Stability Facility (EFSF), which is a temporary euro 440 billion facility that provides loans backed by Euro Area governments. As I understand, this has now been replaced by the permanent European Stability Mechanism (ESM), which provides loans to Euro Area member states that are backed by all Euro Area governments.

It is important for Euro Area governments to build on the progress made so far and deliver on their commitments in a timely manner. In particular, the Euro Area needs to continue to move toward common bank supervision and to develop policies that strengthen growth.

Question 29:

What scenario in Europe poses the greatest threat to the U.S. economy or financial system? How might a crisis in Europe most harm the U.S. financial system and economy?

Europe is in a more stable position today because the European Central Bank and Euro Area leaders have demonstrated their shared commitment to stand behind the Euro Area and have put in place a powerful set of financial tools in support of member states undertaking difficult reforms.

Nonetheless risks remain in some countries where unemployment is high and reforms will take some time to complete.

As our largest economic partner, Europe is an important source of investment and jobs for the United States, and our recovery has been affected by headwinds from the Euro Area. Europe's crisis has curbed demand for exports from the United States, reduced foreign direct investment at home, and adversely impacted the retirement accounts of American workers. I understand that direct U.S. financial sector exposure to the program countries in the Euro Area is limited although it is difficult to estimate precisely all possible exposures. Our globally active banks are much better capitalized and more resilient than they were before the financial crisis.

Question 30:

Taxpayers deserve transparency on Treasury's decision to award multimillion-dollar pay packages to executives at companies that had been stuck in TARP for four years.

In a January 2013 report issued by the TARP Special Inspector General entitled "Treasury Continues Approving Excessive Pay for Top Executives at Bailed-Out Companies," the Inspector General found that once again Treasury failed to rein in excessive pay for TARP executives. The report states that the Inspector General last year also warned Treasury that it lacked robust criteria, policies, and procedures to ensure the guidelines set for TARP executive compensation are met. Therefore, it appears Treasury has made no meaningful reforms.

The report, which discusses Treasury's 2012 executive compensation decisions for the Top 25 executives of AIG, General Motors and Ally Financial, recommends that each year Treasury should reevaluate compensation for employees paid from the prior year; develop policies, procedures, and criteria for approving pay in excess of Treasury guidelines; independently analyze whether good cause exists to award a pay raise or cash salary over $500,000; and return to using long-term restricted stock for employees, particularly for senior employees such as CEOs.

What are your views on the Inspector General's report?

I support vigorous oversight, and, if confirmed, would value input from all of Treasury's oversight bodies. Although I have not had an opportunity to review the report, my understanding is that the Office of the Special Master (OSM) continues to fulfill its mandate by striking a balance between limiting excessive compensation at the remaining "exceptional assistance" TARP recipients while at the same time keeping compensation at levels that enable such firms to remain competitive and repay TARP assistance. I also understand the OSM has responded to many of the issues and recommendations made by the Special Inspector General. If confirmed, I

would carefully consider and consult with the OSM on the recommendations made by the Special Inspector General.

Question 31:

Do you agree with their findings?

Please see my answer to Question 30.

Question 32:

Do you support any of the recommendations made by the Inspector General?

Please see my answer to Question 30.

Question 33:

General Motors Acceptance Corporation (GMAC), which has been rebranded as Ally Financial is the second largest remaining TARP investment, with $14.6 billion in TARP funds owed, for which taxpayers still own 74% of the company.

As part of the auto bailouts of General Motors and Chrysler, the Federal Government made a coordinated bailout of GMAC, once the auto financing subsidiary of GM. According to the TARP Special Inspector General, "GMAC's TARP assistance was markedly different because Treasury never required GMAC to submit a viability plan outlining how it would resolve substantial liabilities that led to historic losses. In addition, Treasury's rescue of GMAC was markedly different from the other auto bailouts because GMAC was the only company in the auto bailout whose business extended beyond the auto industry. In fact, GMAC was one of the nation's largest subprime mortgage lenders. Taxpayers were not just bailing out an auto finance company; they were bailing out one of the nation's largest lenders of subprime mortgages."

Although the Federal Reserve required some restructuring of GMAC as a bank holding company, which was agreed to by the Treasury Department, neither it nor Treasury addressed GMAC's subprime mortgage liabilities through its subsidiary Residential Capital LLC ("ResCap"), where most of its losses occurred. According to the TARP Special Inspector General, by not working to fully restructure Ally and ResCap, as it did with GM and Chrysler, the Treasury Department was merely postponing the resolution of the company's substantial mortgage liabilities, and finally in 2012, ResCap filed bankruptcy.

Because of ResCap's losses and other issues, GMAC/Ally failed Federal Reserve stress tests designed to gauge financial stability, resulting in the Federal Reserve requiring GMAC to raise additional capital. The company did so largely through three taxpayer-funded TARP injections totaling $17.2 billion, of which the Office of Management and Budget estimates taxpayers will lose $5.5 billion.

Ally has repaid only $2.5 billion in principal. Other subprime mortgage companies failed without receiving TARP funds. The Federal Government has also sanctioned Ally for improper mortgage foreclosure practices at ResCap, requiring Ally to pay $316.6 million while being 74% owned by taxpayers.

According to the TARP Special Inspector General, by failing to have required a fully developed viability plan as a condition of TARP, Treasury missed an opportunity to address GMAC's mortgage issues, thereby better protecting the taxpayers' investment and promoting GMAC's financial stability.

Do you agree with the Inspector General's analysis? If not, why not?

I support vigorous oversight, and if confirmed would value input from all of Treasury's oversight bodies. The SIGTARP analysis suggests that, given issues facing ResCap today, Treasury should have taken different actions at the height of the financial crisis. While I was not at Treasury when the decisions on Ally were made, my understanding is that an Ally Financial bankruptcy would have jeopardized financing to dealers and consumers. As a result it could have significantly decreased the likelihood of successfully completing the GM and Chrysler restructurings and threatened the health of the auto industry generally. Moreover, my understanding is that ResCap's legacy mortgage liabilities have significantly worsened since 2009.

Question 34:

What could Treasury have done differently to protect taxpayers' money?

I understand that over the past three and a half years, Treasury has managed the investment in Ally diligently in a manner that protects taxpayer's interests. While more work remains to be done, Treasury has collected $5.8 billion to date inclusive of dividends and has set forth its exit plan to monetize the remaining investment.

Question 35:

The Inspector General has also reported that Treasury has no concrete TARP exit plan for Ally that balances repayment to taxpayers with Ally's financial stability. Do you agree with this statement? What plan of action should Treasury have in place?

I understand that Treasury has described its exit plan on several occasions. Based on those descriptions, I understand that Treasury expects to continue recovering the taxpayer's investment in Ally as the company completes two strategic initiatives which were commenced in May 2012—the Chapter 11 proceeding for its mortgage subsidiary and the sale of its international operations.

Question 36:

The Research & Development (R&D) tax credit is an important tool to encourage innovation and job creation through the tax code. The Alternative Simplified Credit (ASC) was intended by Congress to broaden the number of companies that would be eligible to take advantage of the incentives provided by the R&D tax credit.

From discussions with small and medium business owners in Texas, it is clear that a significant roadblock to these companies taking the R&D tax credit is the fact that the Alternative Simplified Credit (ASC) is only available on original returns.

Congress passed the ASC to expand the availability of the R&D tax credit for businesses – making it easier for businesses, especially small and medium businesses, to determine their eligibility for the credit. However, the Treasury and IRS through regulation in 2008, which appears not to be supported by statute, greatly limited the benefits of the ASC by not allowing it for an amended return. This action by Treasury and IRS has significantly hamstrung the ability of small and medium businesses to take full advantage of the R&D credit. A GAO report on the R&D credit stated that this regulation, again, with no basis in statute, disproportionately disadvantages small and medium businesses.

President Obama has been referencing the importance of the R&D credit to the nation. Why then would the Administration inhibit the use of the credit to small and medium businesses?

The Administration strongly supports the continuation of the Research and Experimentation (R&E) credit and has proposed to make the R&E credit permanent and to simplify and expand it. If confirmed, I would be happy to look into the specific issue you raise.

Question 37:

Will you seek to reverse these regulations as Secretary of the Treasury?

Please see my answer to Question 36.

Question 38:

I am concerned about the timeliness of the Department of the Treasury and the Internal Revenue Service in responding to ruling requests by taxpayers.

For example, in one particular circumstance related to Section 25D of the Internal Revenue Code, which became law in 2005, one of my constituents has been waiting for almost two years following their pre-submission meeting with the IRS and a subsequent formal private letter ruling request. A supplemental submission was filed 17 months ago and to date, Treasury has simply published a new Priority Guidance Plan, issued in late November 2012 seeking "guidance under Section 25D regarding credits for residential energy property."

While I understand taxpayers will need to wait to receive an answer, do you think waiting two years is a reasonable amount of time for taxpayers to receive an answer from their government?

I agree that taxpayers should receive a timely response to their ruling requests.

Question 39:

What policies will you pursue that will improve the timeliness of the Department of Treasury and the Internal Revenue Service in responding to ruling requests by taxpayers?

Please see my answer to Question 38.

Question 40:

Did you intend to lead the American people into the belief that the President's fiscal year 2012 budget would reach balance when you said, in testimony before Congress, "[W]e're spending that money we have each year."? If not, do you think it would be reasonable for the average person to infer from your statement that the budget would continue to run a deficit every year, and that in the best year we would be spending $600 billion more than we had?

Although budget debates can be both complex and contentious, I have always tried to be as accurate as possible in my statements on these issues. During the discussion of the FY 2012 budget, the full context of my statements made it clear I was trying to establish that the federal budget achieved primary balance during the period covered by this budget and that primary balance was an important milestone on the path toward reducing our deficits and debt to sustainable levels.

Question 41:

As Director of the Office of Management and Budget, you testified before the Senate Budget Committee that President Obama's fiscal year 2012 budget would not add to the debt, "That we've stopped spending money we don't have." Yet that budget showed $13 trillion new gross debt. In fact, the tables in the budget showed that in no year was the deficit less than $600 billion. Do you still stand by your statement?

Please see my answer to Question 40.

Question 42:

Former Treasury Secretary Timothy Geithner admitted that even if Congress passed the President's year fiscal year 2012 budget as submitted, "[W]e would still be left with a very large interest burden and unsustainable obligations over time." The same month (February 15, 2011) you told National Public Radio that, "[I]f we're able to reduce the deficit to the point where we can pay for our spending and invest in the future, that is an

enormous accomplishment. This budget has specific proposals that would do that." Can you explain why your statements contradict those of Secretary Geithner?

I do not believe the two statements referenced in your question contradict each other. My statements on the President's FY 2012 budget refer to the fact that this budget achieves primary balance in the short-to-medium term. Former Secretary Geithner's comments refer to the fact that once we achieve primary balance, additional savings are needed to ensure that our deficit and debt levels are sustainable over the long term.

Question 43:

You publicly stated, "We also need to be honest: You can't pass a budget in the Senate of the United States without 60 votes." However, the Congressional Budget Act of 1974 created a special process in the Senate that limits debate and only requiring a simple majority to pass a budget. This specifically prevents a budget filibuster.

a. **Was your statement inaccurate?**

b. **Did you make this statement to suggest to the American people that it was the fault of Senate Republicans for the Senate's failure to pass a budget for almost 1,900 days?**

The statement was not intended to lay blame at anyone's doorstep. As I noted above, budgets and budget processes are complicated issues. While the Senate can pass its version of the budget with a simple majority, this budget does not take effect until the House and Senate pass identical versions of the budget, usually in the form of a budget resolution conference report. Until the House and Senate adopt a budget resolution conference report, budget-related legislation is subject to a 60 vote hurdle in the Senate, just like other legislation.

Question 44:

Do you believe any of your public statements contradict the President's FY2012 budget documents? If not, why not?

I believe my statements during the discussion of the President's FY 2012 budget were consistent with the substance and proposals contained in that budget.

Question 45:

The President said in his State of the Union speech that no area holds more promise than our investments in American energy, and that Americans have benefitted from lower energy prices due to more domestic production. He has been quick to note the growth in oil and gas production – although this growth has been primarily on private lands in states like Texas. The President also proposed we use some of our oil and gas revenues from public lands to fund an Energy Security Trust that will drive new research and technology to shift our cars and trucks off oil for good.

What are the Administration's revenue proposals with respect to the energy industry?

This Administration has been focused on building an energy economy in the United States that is cleaner as well as more efficient and secure. As part of that effort, the Administration has taken action over the past few years to support the development and deployment of renewable energy that will create new jobs and jumpstart new industries in America. Building on important progress achieved during the President's first term, including the doubling of energy from wind and solar, the United States must continue to take steps to reduce carbon pollution. To once again double generation from wind, solar, and geothermal sources by 2020, the President has called for making the renewable energy Production Tax Credit permanent and refundable, providing incentives and certainty for investments in new clean energy such as offshore wind.

Question 46:

Do the planned revenue proposals include tax increases on American energy manufacturers and producers?

Please see my answer to Question 45.

Question 47:

If so, does the Administration propose increases on other industries that have analogous tax provisions?

The FY 2013 Budget proposed to repeal a range of tax subsidies claimed by fossil fuel producers. The domestic price of oil is determined on the world market, and our domestic production has little or no influence on the world price of oil. Thus, tax subsidies that encourage domestic production are very unlikely to affect domestic oil prices. Instead, these subsidies distort markets by encouraging more investment in the oil and gas industry than would occur under a neutral system and, to the extent they encourage our continued dependence on oil, are detrimental to our long-term energy security. Policies that reduce our dependence on oil, such as investing in clean energy technologies, are a more effective way to promote energy security.

A large majority of the natural gas consumed in the United States is domestically produced and the United States is a net exporter of coal. The elimination of tax subsidies for natural gas and coal is unlikely to have any significant effect on domestic production of those commodities. Moreover, the Administration has proposed policies that will increase investment in clean coal and efficient natural gas technologies, highlighting the important role these fuels will continue to play in our nation's energy future.

Question 48:

How would tax increases impact the energy bills of Americans?

Please see my answer to Question 47.

Question 49:

How does raising taxes on the energy producers help increase domestic production?

The Administration is committed to an approach that develops all forms of American energy. This commitment includes the safe and responsible production of our oil and natural gas resources. Today, domestic oil production is at the highest level in nearly a decade, while oil imports have fallen to the lowest level in nearly 20 years. Thanks to pioneering new technologies developed in the United States we are also now the world's leading producer of natural gas. As production has increased, it has boosted our manufacturing, dramatically reduced prices, and created more jobs for the American people. The strength of this sector shows they are not in need of special tax preferences.

Question 50:

How will a decrease in domestic production on federal lands impact the President's goal of a research trust fund financed with oil and gas revenues from public lands?

Please see my answer to Question 49.

Question 51:

A recent Price Waterhouse Coopers study estimates that 9.6 million American jobs already exist, in the oil and gas industry. How would increasing taxes on domestic oil and gas companies impact jobs in this industry?

The existing oil and gas tax subsidies distort markets by encouraging over-investment in the oil and gas industry and underinvestment in other, potentially more productive areas of the economy. The resulting distortions in resource allocation generally reduce economic growth.

Over the long term, employment in the oil and natural gas production and supply industry would not change by a significant amount due to the small changes in domestic production. Moreover, eliminating the distortionary influence of the tax preferences for oil and natural gas will result over time in new jobs being created in other sectors of the U.S. economy.

Question 52:

We need to make sure that U.S. companies can compete in the global economy and how tax policy and changes to that policy will impact jobs, and not single out certain industries. The Administration's previous tax proposals would undermine U.S. companies to the advantage of foreign companies and would undermine what is currently a bright spot of growth, providing millions of American jobs. Dual capacity prevents American companies from being taxed twice on income earned abroad. Rules finalized over 25 years ago hold U.S. firms to a strict standard as to how much they can deduct from their

domestic income tax liability. Doing away with these rules would result in companies facing double taxation, while foreign competitors are not.

Mr. Lew, can you agree that putting American companies at a disadvantage to foreign competitors with proposals such as eliminating dual capacity would put American investment and jobs at risk?

Although the United States has one of the highest statutory corporate tax rates, the large number of loopholes and special interest carve-outs means that effective tax rates are much lower than the statutory rate and vary widely by industry, and even by company, and allow some corporations to avoid paying income taxes almost entirely. The Administration has proposed eliminating a number of tax provisions that favor some industries and investments and benefit only those who receive them, rather than society as a whole. Eliminating loopholes and special preferences will result in a more equitable system and eliminate distortive incentives that hurt overall economic growth. With respect to the dual capacity taxpayer proposal specifically, I have not yet had an opportunity to fully develop a policy position on it, but, if confirmed, look forward to working with the Committee to achieve a fairer and more efficient tax code.

Question 53:

During his State of the Union address, the President urged Congress to pursue a bipartisan, market-based solution to climate change, in other words, cap and trade legislation – which Congress has rejected on a bipartisan basis. The President said further that if Congress won't act, he will through executive actions.

The Waxman-Markey legislation would have had significant impact on Texas families, businesses, and consumers. The goal of the legislation is to dramatically reduce America's conventional energy usage through higher energy prices. In a 2008 San Francisco Chronicle interview, then Senator Obama said that "Under my plan of a cap and trade system, electricity rates would necessarily skyrocket." Gasoline and natural gas prices will rise as well, along with the prices of many products that depend on reasonably priced energy. The Texas Comptroller looked at a reasonable prediction of future energy prices under Waxman-Markey performed hy the Charles River Associates for the National Black Chamber of Commerce. The analysis indicates Texas could lose 170,000 to 425,000 jobs by 2030 as a result of those increased energy prices.

What impact will the President's proposals or executive actions have on the economy?

The President urged Congressional action to pursue solutions in this area, but I am not aware of specific executive actions or proposals that have been announced so I am unable to provide an estimate of any impact. However, as the President's record in his first term makes clear – whether it's new fuel economy standards for cars and trucks or new efficiency standards for household appliances – it's clear that there are common sense steps that we can take to use energy more wisely, create jobs, and save consumers money on their energy bills at the same time.

Question 54:

Do the Administration's revenue proposals seek to address the President's goal of a market-based solution to climate change?

The President urged Congressional action to pursue solutions in this area, but I am not aware of specific Executive actions or proposals that have been announced.

Question 55:

If you cannot give specifics, have discussions taken place within the Treasury and White House on proposals to restrict greenhouse gases?

During the recent State of the Union address, the President stated that "we must do more to combat climate change." The Administration has worked to address the challenges posed by climate change by taking common sense steps that also promote sustainable economic growth, and it will continue to pursue a wide range of initiatives that reduce greenhouse gas emissions, and that provide safe, clean, and affordable energy in the United States. I am aware that White House and Treasury staff members have participated in ongoing discussions about these general issues.

Question 56:

How does the President reconcile highlighting increased domestic production and lower energy bills, and at the same time want to go back to the failed, rejected, and economically-devastating cap and trade proposals?

The President is not calling for cap-and-trade legislation. We can take smart steps to help families save money on their energy bills, create jobs, and reduce pollution all at the same time. For example, the President's fuel economy standards – which will double the efficiency of our cars and trucks – are already saving families money at the pump and reducing greenhouse gas emissions. Moving forward, the President is focused on building on this progress through common-sense steps that help move the country towards safe, affordable, and American-made energy sources.

Question 57:

I understand the Treasury Department is asking a federal district court to dismiss a Freedom of Information Act (FOIA) suit brought by the Competitive Enterprise Institute (CEI). CEI is seeking Treasury emails alleged to discuss a carbon tax.

Further, Treasury has previously said they will process the FOIA request from last August. I have a strong interest in open government and have worked over the years to ensure agencies act on FOIA requests in a timely manner.

What is your general view and expectation on how federal agencies, and particularly the Treasury Department, should handle FOIA requests?

I believe that federal agencies should fulfill their obligations under FOIA and the President's commitment to open and transparent government. If confirmed, I would work with Treasury staff to meet these important FOIA commitments.

I understand that Treasury reduced its FOIA backlog by more than 50 percent between 2009 and 2012 and was one of six Cabinet-level departments recently to receive an "A-" or better rating from the House Oversight and Government Reform Committee with respect to its tracking and management of FOIA requests.

Regarding the specific case you reference, I understand that CEI submitted two very broad FOIA requests to Treasury seeking records using the word "carbon." Treasury has been working to respond to these FOIA requests. However, the unusual breadth of the requests has required significant time to process.

Question 58:

What legitimate reason does Treasury have for delaying this particular request for several months?

See response to Question 57.

Question 59:

Do you believe the public has a right to information regarding a potential carbon tax that could impact them directly?

Yes. However, the Administration has not proposed a carbon tax and does not intend to do so.

Question 60:

What assurances can you give that this matter will be handled to the satisfaction of the requestors?

See response to Question 57.

Question 61:

On the night of September 11, 2012, did President Obama stay up late in order to supervise the U.S. government's response regarding the Americans under attack in Benghazi?

National Security Staff (NSS) officials were in touch with their counterparts across the government in real-time throughout the night to ensure interagency coordination. The President

and his senior advisors were continuously kept apprised of the situation. The ARB report specifically notes that the interagency response that evening was "timely and appropriate."

Question 62:

If he did not, did you or his national security adviser ever awaken him as news came in and further decision points were reached?

Please see my answer to Question 61.

Question 63:

When was the last time you spoke to the President on the evening of September 11, 2012, and when was the last time he was briefed by his national security team that night?

Please see my answer to Question 61.

Question 64:

When the President announced his controversial recess appointments to the National Labor Relations Board (NLRB) and Consumer Protection Financial Board (CFPB) on January 4, 2012, he asserted a novel expansion of executive authority, which was ruled unconstitutional by the U.S. Court of Appeals for the D.C. Circuit this year.

To what extent did you participate in discussions with the President and his advisors about the strategy and timing of these recess appointments?

Please see my answer to Question 65.

Question 65:

As the chief of staff to the President, sworn to uphold and defend the Constitution, did and/or do you harbor any concerns that the President's decision was unconstitutional and a severe breach of the separation of powers between executive and legislative branches of government? Why or why not?

No, I do not have any concerns about the President's decision to make recess appointments, which presidents of both parties have done for many decades.

Question 66:

The Republic of Argentina is a signatory to the US-Argentina Bilateral Investment Treaty, which jointly recognizes The World Bank's International Center for Settlement of Investment Disputes (ICSID) as the final arbiter in commercial disputes. As a signatory, Argentina has agreed to abide by ICSID judgments and awards, subject to economic sanctions for non-compliance.

I am concerned that Argentina has developed a pattern of consistently flaunting international expectations and investor protection obligations, and that the U.S. Government is allowing this pattern of behavior to continue unabated. For instance, in 2001 Argentina expropriated a $600 million investment in water concessions made by Azurix of Houston, Texas. Following eight years of international litigation, the ICSID panel awarded a judgment to the U.S. investor in 2009. Nearly four years later, Argentina still refuses to pay. Failure to adequately compensate U.S. investors for a government taking is a violation of Argentina's treaty obligations, and the U.S. Government's failure to enforce the terms of that treaty dilutes a key protection for investors in all nations with which a bilateral investment treaty has been signed.

The Department of Treasury leads the Administration's engagement in the World Bank, the International Monetary Fund, and other regional development banks. From your point of view, what remedies are available to investors with definitive ICSID judgments against Argentina, but with which the Argentine Government refuses to comply?

I share the serious concerns about Argentina's unwillingness to honor its international obligations.

If confirmed, I would have Treasury continue to work actively to press Argentina at every appropriate opportunity to honor its obligations.

I understand that Treasury is pressing Argentina to abide by its international obligations and to normalize its relationship with the international financial community and foreign investors, including by honoring its international obligations to provide accurate data to the IMF, paying amounts that are past due to the United States and other Paris Club members, and honoring final arbitral awards in favor of U.S. companies.

Because of these concerns toward Argentina, I understand that Treasury has opposed practically all lending to Argentina through the multilateral development banks and supported the IMF's decision to censure Argentina for its misreporting of data, and President Obama suspended Argentina's eligibility for trade preferences under the Generalized System of Preferences program. It is also my understanding that almost all other donors at the Inter-American Development Bank have joined the United States in opposing proposed loans to Argentina. I understand that such a level of disapproval by other donors against the proposed loans to any single country is unprecedented in recent memory, and follows from the leadership position Treasury established in 2011.

Question 67:

According to the most recent Medicare Trustees Report issued in April 2012, the Trustees reported the following: The difference between Medicare's total outlays and its 'dedicated financing sources' reaches an estimated 45 percent of outlays in fiscal year 2012, the first year of the projection.

Based on this result, federal law required the Trustees to issue a determination of projected "excess general revenue Medicare funding." This is the seventh consecutive such finding, triggering a statutory "Medicare funding warning" for the sixth year in a row (2007 through 2012). The Trustees must issue a funding warning after two consecutive reports in which general revenue is estimated to account for more than 45 percent of Medicare's outlays for the current fiscal year or at any time during the next six fiscal years. The law (31 USC §1105(h)) states that:

> **If here is a Medicare funding warning under section 801(a)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 made in a year, the President shall submit to Congress, within the 15-day period beginning on the date of the budget submission to Congress under subsection (a) for the succeeding year, proposed legislation to respond to such warning.**

In response to the Medicare funding warning issued in 2007, President George W. Bush submitted legislation to Congress in 2008. Why has the Obama Administration failed to submit a single legislative proposal to Congress in response to annual Medicare funding warnings issued by the program's Trustees?

The Medicare Modernization Act requires that the President submit legislation to Congress in the event a Medicare Funding Warning is triggered. My understanding is that the Bush Administration issued a signing statement concluding that this is inconsistent with the Recommendations Clause of the Constitution, and the Obama Administration came to the same conclusion. After I became Director of OMB in late 2010, I did not revisit this position, and OMB reiterated it in a 2013 letter.

I understand that the most recent Medicare Trustees Report shows that, while general revenues were projected to exceed the threshold that triggers the warning in 2012, general revenues are projected to fall below that threshold in every year from 2013 to after 2020. In other words, my understanding is that a warning is not projected in 2013 under current law, even absent legislative changes in Medicare.

The President takes Medicare's financing problems seriously and proposed about $300 billion in Medicare savings in the last Budget. The Administration is committed to making Medicare more efficient and ensuring its long-run solvency.

Question 68:

While Director of the Office and Management and Budget (OMB) do you recall having discussion with the President or any other Administration official about whether legislation should be submitted to Congress in response to Medicare funding warnings issued by the Trustees should be submitted?

I do not recall any such discussions.

Question 69:

During your confirmation hearing before the Senate Finance Committee on February 13, 2013, you referenced a statement that President Bush issued when signing H.R. 1, the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003." Part of that signing statement reads:

> ***The executive branch shall construe these provisions in a manner consistent with the President's constitutional authority to supervise the unitary executive branch and to recommend for the consideration of the Congress such measures as the President judges necessary and expedient."***

When campaigning for office in 2008, then-Senator Obama promised the American people "[W]e are not going to use signing statements as a way of doing an end run around Congress."

Why is the President now relying on this signing statement to avoid meeting his statutory responsibilities, if it previously viewed such statements as "a way of doing an end run around Congress"?

If confirmed, it would not be my role as Secretary of the Treasury to have a position or policy on signing statements. The President's position is that signing statements should be used sparingly, and I believe his record bears that out.

Question 70:

You have suggested that 'reforms' included in the Patient Protection and Affordable Care Act (PPACA) will help preserve the Medicare program. However, in its 2012 report, the Medicare Trustees project that, even while taking into account PPACA, the Medicare Hospital Insurance Trust Fund will be insolvent by 2024. Does the President not believe that reforms are "necessary" at this point?

The President has demonstrated a commitment to improving the long-run solvency of Medicare, and he continues to seek ways to increase the efficiency of the program. The Affordable Care Act (ACA) significantly reduced Medicare's financing shortfall. My understanding is that, without the ACA, the Hospital Insurance Trust Fund would be exhausted in 2016, eight years earlier than currently projected. I also understand that the ACA also cut the actuarial deficit of the 75-year Hospital Insurance Trust Fund by nearly two-thirds. At the same time, more reforms are necessary, and the President's FY 2013 budget included about $300 billion in additional reductions in Medicare spending.

Question 71:

In your testimony before the Senate Finance Committee on February 13, 2013, you asserted that "Before I was at OMB, the decision was made not to voluntarily submit it." As you know, each year you were at OMB another Medicare funding warning was issued, triggering a legislative response from the President.

a. **While these warnings were being issued, is it accurate to say that you never discussed submitting a legislative proposal to Congress to shore up Medicare's finances?**

b. **Is it your view, and the President's view, then that the program is not in need of reforms?**

Please see my answers to Questions 67, 68, and 70.

Question 72:

In 2010 and 2011, you served as OMB Director, the entity responsible for drafting and submitting fiscal proposals to Congress and complying with federal budget law. You also served in that office for part of 2012.

a. **As the President's Budget Director, did you know you were responsible for complying with 31 USC §1105?**

b. **Were you aware that this includes submitting a legislative response to Medicare funding warnings?**

c. **When did you first become aware of this statutory requirement?**

d. **In addition, in your testimony before the Senate Finance Committee on February 13, 2013, you referred to the legal requirement as a requirement that the President submit a report to Congress. Are you aware that the law requires the President to submit legislation to Congress, not a report?**

e. **In your testimony before the Senate Finance Committee on February 13, 2013 you suggested that the President's budget submissions fulfilled this legal requirement. Are you aware that a budget submission is not the same as legislation?**

I do not recall when or how I learned of the statute referenced in your question. As I noted in my answer to Question 67, I understand that the Bush Administration issued a signing statement concluding that the requirement is inconsistent with the Recommendations Clause of the Constitution, and that the Obama Administration came to the same conclusion. After I became Director of OMB in late 2010, I did not revisit this position, and OMB reiterated it in a 2013 letter. Again, the President takes Medicare's financing problems seriously and proposed about $300 billion in Medicare savings in the last Budget.

Question 73:

Furthermore, you also asserted in your February 13, 2013 testimony before the Senate Finance Committee that "[T]he combination of the trajectory we're on with the savings from the Affordable Care Act and specific proposals of the administration put forward have addressed the substance of the issue." Can you provide the basis for this claim? As

you know, the Medicare trustees have issued funding warnings in all three reports since the health care law was enacted (2010 through 2012). Additionally, under the President's most recent budget submission (FY 2013), formulated while you were OMB Director, Medicare spending would have increased by $135 billion over the next 10 years, according to OMB estimates. The prior year's budget submission by the President (FY 2012), also formulated under you, would have increased Medicare spending by $329 billion over a 10-year period, also based on OMB's own estimates. Please provide the estimates you are relying upon to substantiate the assertion you made in your testimony.

The Affordable Care Act (ACA) significantly reduced Medicare's financing shortfall. I understand that, without the ACA, the Hospital Insurance Trust Fund would be projected to be exhausted in 2016, eight years earlier than currently projected. I also understand that the ACA also reduced the actuarial deficit of the 75-year Hospital Insurance Trust Fund by nearly two-thirds.

My understanding is that in the 2009 Medicare Trustees Report, the general revenue share of program expenditures exceeds 45 percent for every year starting in the early part of this decade. In the 2012 Report, I understand that the general revenue share falls below 45 percent in 2013 as many of the financing and program reforms from the ACA are in place, and remains below 45 percent until after 2020. Even with these improvements in program financing, the President proposed about $300 billion in additional Medicare savings over 10 years in the FY 2013 budget.

Senator Thune

Question 1:

If confirmed, what actions will you take or will you recommend that the president take to address serious and meaningful entitlement reform?

Long-run entitlement reform to ensure solvency for those who rely on these programs will require difficult choices. The Administration is focused on addressing these challenges in order to assure that we fulfill our commitments to our seniors and others who rely on these programs. The major reforms the President achieved in the Affordable Care Act demonstrate this commitment, though there is still more work to do. Likewise, his past budget proposals find efficiencies in health programs, including Medicare. We must work together to ensure that current and future generations of Americans can count on these vital programs.

Question 2:

What would you say to those in your party who say that reforming Medicare and Social Security would be dangerous, from a political standpoint, for your party? Where do you draw the line between politics and good policy?

The President has shown a willingness to make the difficult choices necessary to ensure the long-run sustainability of all our entitlement programs, including Medicare and Social Security. I have always been a proponent of making sound policy decisions that are in the best interests of the American people.

Question 3:

While running for president in 2008, then-Senator Obama said: ***"The problem is, is that the way Bush has done it over the last eight years is to take out a credit card from the Bank of China in the name of our children, driving up our national debt from $5 trillion for the first 42 presidents – #43 added $4 trillion by his lonesome, so that we now have over $9 trillion of debt that we are going to have to pay back — $30,000 for every man, woman and child. That's irresponsible. It's unpatriotic."***

Given that President Obama added nearly $6 trillion to the national debt during his first term in office – more than President Bush added in 8 years – and considering that the recent CBO baseline projects $10 trillion in new debt over the next 10 years under current policies, do you believe the fiscal record of the Obama Administration to date has been responsible or irresponsible? If the national debt at the end of President Obama's second term exceeds $19 trillion – as CBO currently projects – would you agree that this level of debt would represent an enormous failure on the part of the administration?

When the President took office, he inherited a federal deficit of more than 9 percent of GDP in Fiscal Year 2009 before any of his policies were enacted and a time when budget projections did not contemplate the full depth of the crisis. These deficits were largely the product of decisions

made during the previous decade, including both unpaid-for spending and tax cuts. This situation was made significantly worse by the financial crisis and recession, which was the worst this country has experienced since the Great Depression.

As the economy has been recovering from the crisis, President Obama has moved to reduce fiscal deficits and proposed a way to dig us out of these deep deficits. The Administration's FY 2013 Budget included proposals that would reduce projected deficits by a total of more than $4 trillion over the next decade, stabilizing the debt as a share of the economy before the end of the decade. The budget deficit has fallen, and is projected to fall further as previously-enacted deficit reduction and economic growth take hold. If confirmed, I look forward to working with Congress to help put in place a budget that will move us further down the path towards fiscal sustainability.

Question 4:

Federal spending this year is 23% of GDP, up from 18% under Clinton. How high should federal spending go? Is 25% too high? Is 28% too high? CBO's alternative fiscal scenario, which assumes no spending reforms, shows federal spending rising to 40% of GDP by the 2040s. What would be the impact on America's economy and the well-being of future generations from this level of spending?

Federal expenditures rose in Fiscal Years 2009 and 2010 in response to the recession, through increased spending on automatic stabilizers and temporary policy measures necessary to help pull the economy out of the financial crisis and recession. Substantial progress has been made over the past few years to reduce deficits through a balanced approach to spending reductions and modest revenue increases. Spending as a share of the economy has fallen by nearly 2.5 percentage points of GDP since 2009 as the economy has begun to heal. The Administration's deficit reduction proposals, along with deficit reduction measures signed into law over the last two years, would reduce discretionary spending to the lowest level as a share of economy since President Eisenhower was in office. Over the longer run, changing demographics will put additional pressure on entitlement programs, with 30 million new retirees over the next 20 years. Anticipating these changes emphasizes the need for sensible reforms, so that current and future seniors can continue to rely on our retirement and health care programs.

Question 5:

What are some specific options for entitlement reform that this Administration would be comfortable supporting?

I understand that the reforms implemented by the Affordable Care Act have already reduced the Medicare Hospital Insurance actuarial deficit by nearly two-thirds and extended the life of the Trust fund by eight years. The President's FY 2013 Budget proposed specific measures that included about $300 billion in Medicare savings and hundreds of billions more in other mandatory programs. The President has also expressed willingness, as part of a larger package of reforms, to consider alternative approaches to indexing Social Security benefits and other

measures. However, we must ensure that our seniors and most vulnerable don't bear an outsized share of the burden of any reforms.

Question 6:

Do you believe Dodd-Frank has ended the notion of banks being "too big to fail"? Please elaborate on specific provisions of Dodd-Frank that you believe prevent the need for government bailouts going forward.

The reforms put in place with the Dodd-Frank Act provide regulators with critical tools and authorities that we lacked before the crisis to resolve large financial firms whose failure would have serious adverse effects on financial stability. I understand that the emergency resolution authority for failing firms created under Title II prohibits any bailout, while protecting taxpayers and the U.S. economy. For any financial firm that is placed into receivership under this Dodd-Frank emergency resolution authority, management and directors responsible for the failed condition of the firm will be removed and shareholders will be wiped out.

In addition, the largest firms have written "living wills" to provide a roadmap to facilitate their rapid and orderly resolution in the event of bankruptcy. In addition to resolution, large, complex financial institutions will now be required to hold significantly higher levels of capital. Leverage is significantly lower, reliance on short term funding is lower, and liquidity positions have already improved such that large firms are less vulnerable in the event of a downturn.

Question 7:

There is increasing concern among U.S. financial services companies that international standard setters may be imposing new one-size-fits-all requirements that will add to marketplace costs without adequate analyses of the problems to be addressed and the benefits versus costs of the new requirements. Further, these mandates may harm the competitiveness of U.S. companies competing in foreign markets, when the new requirements reflect a non-U.S. regulatory model. These concerns have surfaced with regard to Basel III mandates on banks but apply equally, for example, to the proposed new mandates on U.S. insurers through the International Association of Insurance Supervisor's (IAIS) ComFrame initiative. The FSB and IAIS are also coordinating new global standards to impose on insurers that are part of global systemically important financial institutions. Considering the involvement of Treasury in the FSB and Treasury's Federal Insurance Office (FIO) in the IAIS, what will your Department do to prevent the imposition of new mandates on U.S. insurers from international standard setting organizations, including the FSB and IAIS, that could reduce U.S. competitiveness and jobs growth?

I have not yet had an opportunity to develop a detailed understanding of all issues pending at the FSB and IAIS. I agree that international standards applicable to insurers should not only foster appropriate and balanced supervision for internationally active firms, but also foster a level playing field.

Question 8:

The Republic of Argentina, as I am sure you are aware, has ignored over 100 U.S. court judgments against it stemming from its failure to meet its obligations to private creditors. I note that following a recent judgment against Argentina by the U.S. Court of Appeals for the Second Circuit, Argentine President Kirchner defiantly pledged "not to pay a single dollar" to private U.S. creditors, regardless of the court decision. Are you concerned about Argentina's open hostility to US courts? Please provide your views on how this disrespect for the rule of law is harmful to the international financial system.

I share the serious concerns about Argentina's unwillingness to honor its international obligations.

If confirmed, I would have Treasury continue to work actively to press Argentina at every appropriate opportunity to honor its obligations.

I understand that Treasury is pressing Argentina to abide by its international obligations and to normalize its relationship with the international financial community and foreign investors, including by honoring its international obligations to provide accurate data to the IMF, paying amounts that are past due to the United States and other Paris Club members, and honoring final arbitral awards in favor of U.S. companies.

Because of these concerns toward Argentina, I understand that Treasury has opposed practically all lending to Argentina through the multilateral development banks and supported the IMF's decision to censure Argentina for its misreporting of data, and President Obama suspended Argentina's eligibility for trade preferences under the Generalized System of Preferences program. It is also my understanding that almost all other donors at the Inter-American Development Bank have joined the United States in opposing proposed loans to Argentina. I understand that such a level of disapproval by other donors against the proposed loans to any single country is unprecedented in recent memory, and follows from the leadership position Treasury established in 2011.

Question 9:

Two weeks ago, the IMF took the unprecedented step of censuring Argentina for failing to publish honest economic statistics. Other international institutions have also taken firm action in response to Argentina's serial defiance of international norms. The World Bank, for example, has refused to consider new loans to Argentina. The Paris Club has resisted Argentine requests to dilute its standards and has continued to insist that Argentina meet its obligations. The World Trade Organization is examining Argentina's violation of trade agreements.

The Inter-American Development Bank, however, is an outlier. It continues to approve loans to Argentina despite Argentina's evasion of court judgments against it, defiance of international arbitral panels, failure to settle its debts to official and private creditors, and unwillingness to meet basic international standards.

My question is this: While I understand that it is US policy to oppose loans to Argentina in the IADB, what steps will you take as Treasury Secretary to encourage other nations to join us? Will you energetically work to persuade the IADB board that further loans to Argentina are inappropriate as long as Argentina fails to respect the rules of the international community?

Please see my answer to Question 8.

Question 10:

Senator Wyden and I recently sent a letter (dated February 7, 2013) to the Department of Treasury and US Customs and Border Protection (CBP) asking for immediate assistance in resolving what has been an embarrassing failure to collect bonds relating to duties owed on certain agricultural imports from China. In the late 1990s, unfairly traded imports from China of honey and other agricultural products began having a very negative impact on certain U.S. industries, including honey producers in South Dakota. The US imposed anti-dumping duties to offset the unfair pricing of these Chinese products. However, as of today, hundreds of millions of dollars owed to taxpayers have not been collected. To be clear, this is not a matter of tracking down companies in China, the bonds remain uncollected due to the inaction of CBP and the insurers that issued the bonds in question.

Senator Wyden and I have been pressing CBP to address this glaring problem for months and have heretofore received an inadequate and unsatisfactory response. Although CBP is primarily under the aegis of the Department of Homeland Security, the revenue collection functions of CBP are still largely at the Department of Treasury and Treasury regulates the insurance companies that issue customs bonds, which makes this at least partly a responsibility of the Department of Treasury.

Can you commit to me that you will provide me a full accounting of these bonds, and that you will directly answer the questions raised in my most recent letter with Senator Wyden? Additionally, can you assure me that you will direct CBP to pursue all necessary means to collect these bonds for the sake of American taxpayers and American producers injured by the unfairly priced Chinese imports?

Yes. If confirmed, I look forward to working together with the Committee and the Department of Homeland Security, including Customs and Border Protection, on issues related to the collection of import duties.

Question 11:

Under the law exchanges and Medicaid programs are required to perform eligibility determinations for premium subsidies, Medicaid, CHIP and the basic health plan. The statute clearly does not contemplate a majority of states defaulting to the federally-facilitated exchange or FFE, and therefore does not specify how the federal exchange will administer eligibility determinations for state-run programs. With more than half of all states, including South Dakota, defaulting to the Federally-facilitated exchange can you

please explain how the FFE will make eligibility determinations as required under the law, particularly in light of the complexity and variation in each state's Medicaid and CHIP eligibility rules? More specifically, will the FFE have the technology and capacity to make MAGI eligibility determinations for the states or will it be limited to making eligibility assessments and forwarding that information onto the state's Medicaid/CHIP program for the eligibility determination?

It is my understanding that the Department of Health and Human Services has primary responsibility for this issue and is therefore in a better position than Treasury to provide an answer. But to the extent that Treasury is involved in the matter, I look forward to working with the Committee on the issue.

Question 12:

Can you give me a better picture of the resources the IRS is having to devote to implementing ACA? How many employees are devoted to these projects (full and part-time)? How much has the IRS paid or committed to regarding outside contractors to implement ACA? What are the projections for next year? I believe when the Commissioner was asked a similar question about next year his answer was "you tell me my budget and I will tell you how much I will spend on ACA implementation." I hope your answer will contain specifics and not a similar evasive answer as I am sure the IRS has done budgeting for the upcoming year.

According to Treasury, in FY 2012, the IRS had just under 700 full-time equivalent staff working on ACA. From FY 2010 through FY 2012, the IRS spent $297.1 million on information technology contract costs. The FY 2013 President's Budget requested $360 million and 859 FTE, about 70 percent of which is for IT implementation and program management.

Question 13:

For the past six years, the Medicare Trustees report has triggered the excess general funding warning. As you know, this warning requires the administration to submit a legislative proposal to Congress to reduce the general fund contribution of Medicare to 45 percent or less. George W. Bush complied with the law in 2008, which was the first time the trigger was met. The trigger has been met each year since, yet this administration has not submitted a legislative proposal to Congress.

Why hasn't this administration complied with the law, and do you intend to comply with this portion of the Medicare Modernization Act if confirmed?

The Medicare Modernization Act requires that the President submit legislation to Congress in the event a Medicare Funding Warning is triggered. My understanding is that the Bush Administration issued a signing statement concluding that this is inconsistent with the Recommendations Clause of the Constitution, and the Obama Administration came to the same conclusion. After I became Director of OMB in late 2010, I did not revisit this position, and OMB reiterated it in a 2013 letter.

I understand that the most recent Medicare Trustees Report shows that, while general revenues were projected to exceed the threshold that triggers the warning in 2012, general revenues are projected to fall below that threshold in every year from 2013 to after 2020. In other words, my understanding is that a warning is not projected in 2013 under current law, even absent legislative changes in Medicare.

The President takes Medicare's financing problems seriously and proposed more than $300 billion in Medicare savings in his FY 2013 Budget. The Administration is committed to making Medicare more efficient and ensuring its long-run solvency.

Question 14:

The Administration's suggestion in its business tax reform framework that the corporate tax rate should be lowered, from 35 percent to 28 percent is a step in the right direction. However, as you know, the vast majority of businesses today are organized as pass-thru entities, such as LLCs, S-corporations and partnerships.

My state of South Dakota happens to rank in the top 6 states in terms of states with the highest proportion of its businesses organized as pass-thrus. As such, I am deeply concerned by the Administration's suggestion that we could enact business tax reform without enacting individual tax reform. It strikes me as deeply unfair to have one taxpayer paying a nearly 40 percent tax rate on his business income while another business is taxed at, for example, the Administration's proposed 28 percent corporate rate.

Given these concerns, wouldn't you agree with me that tax reform needs to be truly comprehensive and that it must encompass both the individual rates and the corporate rates?

I believe that both individual and business income tax reform are needed. I also believe that business tax reform can be accomplished independently from individual tax reform. The President's Framework for Business Tax Reform lays out broad principles and makes a number of specific suggestions on how to achieve a reformed and rational business tax system. That system would have a maximum corporate tax rate of no more than 28 percent, while being mindful of the important role played by pass-throughs and sensitive to the need to provide simplifying tax relief to small businesses. If confirmed, I look forward to working with the Committee on business and individual income tax reform.

Question 15:

One of the reasons for tax reform is the need to make U.S. businesses more globally competitive. As the Administration's business tax "framework" documents states: "Tax reform should be a foundation to maximize investment, growth and jobs in the United States." Yet the very same framework document largely dodges the issue of whether the U.S. should move from the current worldwide system of taxation to a territorial system.

Given that we are now the only G-8 country without a territorial system, and given that the abuse concerns raised by the administration would need to be considered as part of any move to a territorial system, why won't the Administration come out in favor of a territorial system? I believe such a statement by the Administration would do much to build confidence in the business community that this Administration is serious about tax reform that will make America more competitive in the global economy.

The President's Framework for Business Tax Reform supports a hybrid approach that reduces incentives for companies to shift profits and investment to low-tax countries, puts the United States on a more level playing field with our international competitors, and helps end the global race to the bottom on corporate tax rates—while also making American companies more competitive globally. There is considerable debate as to how to reform the international tax system, but I believe that there is common ground on this subject, including a mutual concern about preserving the U.S. tax base by reducing incentives that encourage the shifting of investment and income overseas, and making the United States more competitive globally. I look forward to working with the Committee on a bipartisan basis to develop approaches to international taxation that will ensure the United States will retain and attract high-quality jobs.

Question 16:

As you know, the current economic recovery is the weakest we've experienced since World War II and most economists project economic growth in 2013 to be below 2 percent. This persistent slow grow has an enormous effect on deficits and debt over the long-term.

The Republican staff of the Joint Economic Committee found that simply having growth equal to the average economic growth of the past 60 years since the beginning of the recovery would have cut last year's deficit in half.

As such, does the Administration agree that boosting economic growth should be a top priority going forward and that fundamental tax reform and regulatory reform are important means by which to accomplish this end?

An analysis of the historic record supports the view that recessions triggered by financial collapses tend to be deeper and last longer. The Administration places boosting growth as a top priority and has proposed a wide range of pro-growth policies, including job creating initiatives in the American Jobs Act, and policies that support education and skills development, research and innovation, and infrastructure investment.

I have supported tax reform as a means to reducing the costs and complexity in our current tax code. Appropriately designed tax reform can help to boost economic performance and growth, for example by making American businesses more competitive and by removing distorting tax considerations from economic decisions. If confirmed, I look forward to working with Congress on this issue.

With regard to regulatory reform, I have supported efforts to review and reduce unnecessary and redundant regulations while I was at the Office of Management and Budget to ensure that the

United States has a regulatory system that protects financial stability and Americans' health and well-being, while promoting innovation, competition, and economic prosperity. Also, fully implementing Dodd-Frank will give rise to a sounder, more stable financial system that supports growth.

Question 17:

As you know, the issue of "tax havens" has garnered a great deal of attention over the past few years. A number of bills have been introduced in Congress and the President's re-election campaign went to great lengths to highlight the investments of his opponent in what the President's campaign in one of its ads portrayed as "tax havens like Bermuda and the Cayman Islands."

Yet as numerous examinations of this issue have revealed, businesses and individual invest off-shore for a variety of reasons, some of which are nefarious but some of which are completely legitimate. Even your former employer found it advantageous to hase some of its funds outside the U.S.

While I strongly support efforts to stop illegal tax avoidance, shouldn't we also focus on the underlying reason why Americans sometimes invest outside the U.S., which is that our current tax system is antiquated and not competitive? Do you agree with the view that investments outside the U.S., even in places often characterized as "tax havens," are a symptom of deeper problem with our tax system? Wouldn't a focus on a lower corporate tax rate, for example, take away the incentive to derive profits outside the U.S.?

The President's Framework reflects a concern that the current U.S. international tax system creates incentives for U.S. companies to locate their operations and profits abroad, which leads to erosion of the U.S. tax base. The Framework acknowledges that the combination of a relatively narrow tax base and a high statutory tax rate makes the U.S. tax system less effective and less efficient than it should be. The Administration believes that tax reform should be a foundation to maximize investment, growth, and jobs in the United States. In order to promote increased investment in the United States, the Framework proposes to reform the current system of taxing U.S. businesses and sets forth several elements of business tax reform that would help address these concerns. There is considerable debate as to how to reform the international tax system, but I believe that there is common ground on this subject, including a mutual concern about preserving the U.S. tax base by reducing incentives that encourage the shifting of investment and income overseas. This common ground could advance efforts to reform the current U.S. international tax rules, and if confirmed, I would commit to working with Congress and stakeholders to enact tax reform.

Question 18:

While you were Chief of Staff for President Obama, the Obama Administration rejected the presidential permit for the Keystone XL pipeline. This was a high profile decision that likely had input from the Obama White House. Did you ever advise or counsel the

president, TransCanada, or State Department officials on TransCanada's permit application? If so, what input did you provide on the permit for the pipeline?

The Administration has not rejected TransCanada's permit application. In November 2011, the Department of State concluded it could not make a fully informed national-interest determination given unresolved issues concerning the proposed route through Nebraska. In late November 2011, Congress began considering legislation to force the Administration to make a final decision within 60 days. The Administration informed Congress that such a deadline was unreasonable, and that enacting legislation would delay a final decision and would require a renewed permit application. Nonetheless, in late December 2011, Congress passed legislation adopting the deadline.

In January 2012, the President accepted the State Department's recommendation that 60 days was insufficient to consider all the issues related to TransCanada's permit application. The President concluded that the permit was not in the national interest "as presented and analyzed at [that] time." The review process was run by the State Department, pursuant to Executive Order 13337. TransCanada's renewed permit application is under continued review by the State Department.

Question 19:

What are your thoughts in terms of the Treasury Department's role in ensuring that the combined impact of the new banking regulations, whether related to the newly proposed capital rules or the expected liquidity rules, or in general the changes in consumer and mortgage regulations, does not harm the economy's potential for growth? Have you been involved in any formal or informal economic studies on this subject while at the OMB, or are you planning to conduct such studies at the Department of Treasury? How would you plan to exert influence on any new or existing regulations to ensure that they are effective in preventing risk while maintaining the efficient role of financial institutions in promoting growth?

I think we need to be attentive to the benefits and burdens of all regulations, particularly in an area as important to the economy as financial services. For example, the crisis revealed that banking institutions need more and better capital to help reduce the probability of a future crisis in the banking system. It is important that Treasury continues its dialogue with the banking regulators as they work towards implementing Basel III capital standards and the Dodd-Frank Act, recognizing that we need strong standards that reflect lessons learned from the financial crisis while avoiding the imposition of undue costs. If confirmed, I would continue the important work of coordinating closely with the regulatory agencies, including Treasury's engagement with the banking regulators and the FSOC's efforts to facilitate information sharing and coordination among its member agencies.

Question 20:

Last fall, the Congressional Research Service (CRS) released a report that said taxes have no effect on economic growth. A recent study from the Tax Foundation reviewed every

empirical study published in a peer reviewed academic journal it could find on the topic of taxes and economic growth, and found the opposite to be true – that taxes do in fact impact economic growth. Do you agree with the premise that if you tax something more heavily, such as wages or investment, you will get less of it? In your view, what is the effect of taxes on growth, and which taxes are most harmful?

Appropriately designed tax reform can help to boost economic performance and growth, by making American businesses more competitive and by removing distorting tax considerations from economic decisions.

Our goal is a tax system that minimizes distortions to economic activity while at the same time meeting revenue requirements for vital government services that enhance the dynamism and competitiveness of the American economy.

Question 21:

I understand from tax preparers and the National Taxpayer Advocate, that tax fraud continues to be a growing problem, especially with respect to identity theft. However, I understand that some simple efforts to identify fraud have been stopped in the past year. For example, I understand that the IRS would informally investigate when multiple IRS refund checks were going to a single address or P.O. Box but that practice has been stopped. Is this accurate and, if so, can you explain why this is the case? It is also my understanding that when a tax preparers knows of another preparer likely committing fraud and inform the IRS, such whistleblowers are told that it will take several months until the IRS can check on this information. Is this report accurate? If confirmed, what specific steps will you take to combat tax fraud, especially relating to identity theft?

Preventing tax fraud and combating identity theft are critical to ensuring that our tax system is fair. It is my understanding that, in recent years, the IRS has undertaken an extensive effort to combat tax fraud and, if confirmed, I would continue to support the IRS in those efforts.

Question 22:

There have been concerns raised by many Americans, including Members of Congress, regarding the rapid increase in the number of taxpayers using Individual Taxpayer Identification Numbers (ITINs) to file for refundable child credits. ITINs are typically used by taxpayers who are not eligible to legally work in the U.S. These taxpayers are unable to claim other public benefits, such as Earned Income Tax Credit payments, by virtue of a 1996 law that limits such benefits to those using a valid Social Security number.

Refundable child credit payments to taxpayers using ITINs is increasing rapidly, from $924 million in 2005 to $4.2 billion in 2010. A report released by the Treasury Inspector General for Tax Administration (TIGTA) on July 7, 2011 estimated that conforming the treatment of the child credit outlays to other public benefits would save taxpayers $8.4 billion over two years. Given the recent growth in ITIN refund filings and the fact that Congress recently made permanent the child credit at the $1,000 per child level, it is not

unrealistic to assume that bringing the refundable child credit in line with other government outlays with respect to ITIN filers could save American taxpayers at least $40 billion over the next ten years, and possibly much more.

I understand that the Treasury Department has made the legal judgment that the provisions of the 1996 law that require a social security number to claim the refundable Earned Income Tax Credit and other federal benefits does not apply to the refundable child credit. Will you commit to reconsidering this determination in light of the potential for fraud regarding refundable credits in general and the child credit in particular? If Treasury believes it does not have the authority to disallow these payments to ITIN filers, would you support congressional action to clarify the treatment of child credit payments to bring them in line with how government spending on other public benefits is currently treated?

It is my understanding that Treasury and the IRS have considered this issue carefully and have concluded that the IRS does not have authority under current law to deny the refundable child credit to Individual Taxpayer Identification Number (ITIN) filers.

Senator Burr

Question 1:

If confirmed to be Treasury Secretary, you will also serve as a Managing Trustee of the Medicare Trust Fund. The Trustees' reports have repeatedly warned of Medicare's unsustainable course—the program faces $37 trillion in unfunded liabilities—and the Medicare Hospital Insurance Trust Fund could be exhausted as early as 2017. Please explain what happens when Medicare Part A runs out of money.

My understanding is that the 2012 Trustees Report estimates that implementation of the Affordable Care Act (ACA) reduces the actuarial deficit of the Hospital Insurance Trust Fund by two-thirds and extends the life of the Trust Fund to 2024. At that time, I understand that payments to providers and health plans would be paid at a level consistent with incoming taxes and premiums unless further action is taken to support the Hospital Insurance fund. There is more work to do to ensure long-run sustainability of the Medicare program, and the Administration has been clear in its commitment to meet its obligations to our seniors by strengthening Medicare's finances.

Question 2:

Does the Administration believe that the 60,000 millionaires on Medicare should pay the same Medicare premiums as other seniors with incomes above $250,000 enrolled in the Medicare program?

Building on similar policies in the ACA, the President supports proposals that ask the highest income beneficiaries to pay their fair share in financing the costs of the program. The President's FY 2013 Budget included a proposal to raise Parts B and D premiums on high-income beneficiaries. Under that proposal, the highest income category would pay 90 percent of the costs of their benefits.

Question 3:

The President's Fiscal Commission warned that federal health care spending represents our single largest fiscal challenge over the long run. Yet, the President's last two budget submissions, formulated under your watch, would actually have increased Medicare spending relative to current law. Do you disagree with any of the President's Fiscal Commission, the Medicare Trustees, and CBO's findings about the unsustainable course of federal health care spending? If so, please describe in detail which specific findings you disagree with and why.

The President's FY 2013 budget included about $300 billion in Medicare savings. Moreover, the ACA significantly reduced Medicare's financing shortfall. For instance, the ACA cut the actuarial deficit of the 75-year Hospital Insurance Trust Fund by nearly two-thirds. The President has demonstrated a commitment to improving the long-run solvency of Medicare, and he continues to seek ways to increase the efficiency of the program.

Question 4:

Earlier this month, Ranking Member Hatch laid out five specific, reasonable health care reforms that would help to rein in entitlement spending and put our nation on a better fiscal course. These reforms have enjoyed bipartisan support. Please provide at least five specific, bipartisan health care entitlement reforms that the President supports.

The President's FY 2013 Budget contains numerous reforms to entitlement programs. Many of the reforms proposed in the Budget are also found in many of the bipartisan proposals that have been released in the past few years.

Question 5:

The President's health care law includes an annual fee on health insurance providers that appears to apply to individuals, Medicare Advantage, and managed care Medicaid programs. The Joint Committee on Taxation has determined that a very large portion of the fee will be borne by consumers, including state governments with impacted Medicaid plans. Since Medicaid is a federal-state partnership, doesn't this fee essentially tax federal and state governments, driving up health care costs for both?

The annual fee is imposed on entities that are in the business of providing health insurance, and those entities are responsible for paying the fee. I have not yet had an opportunity to fully develop a view on this particular matter, but look forward to working with the Committee on this issue.

Question 6:

When will IRS promulgate the regulation on PPACA's annual fee on health insurance providers?

The Administration is working diligently on all aspects of implementation of the Affordable Care Act. If confirmed, I look forward to working with officials in the Treasury Department and the IRS on this issue.

Question 7:

CMS has been building infrastructure for the Exchanges, which need to be operational beginning October 1, 2013 for the initial open enrollment period—a very aggressive timeline considering all that remains to be done. We've heard significant concerns from stakeholders regarding the readiness of the IT infrastructure necessary to support the Exchanges, particularly with respect to the federal data services hub. Please describe in detail the Administration's contingency plan if the Exchanges and the hub aren't actually operational on October 1, 2013. Please also detail what testing has occurred to date with respect to this IT infrastructure, including the federal data services hub.

While I have not yet had an opportunity to fully engage with the issue of the federal hub, it is my understanding that the Department of Health and Human Services has primary responsibility and therefore may be in a better position than Treasury to provide an answer. But to the extent that Treasury is involved in the matter, I look forward to working with the Committee on the issue.

Question 8:

My understanding is that the federal data services hub will determine consumer eligibility for federal subsidies and connect with several federal agencies, such as Homeland Security, Social Security, IRS, Treasury, and HHS. The hub will be sharing very sensitive data, such as Social Security numbers. Has the hub been thoroughly tested to ensure that the data flows are accurate and sensitive information will be protected? Has an independent audit been done to assure the validity of the data and system security to ensure sensitive information will be protected? If not, would you support such an audit and does the Administration plan to pursue such an audit?

I have not yet had an opportunity to fully engage with the details of the implementation of a federal hub. Moreover, it is my understanding that the Department of Health and Human Services has primary responsibility for the hub.

Question 9:

What will be the annual budget costs for running the Federally Facilitated Exchange under PPACA?

It is my understanding that the Department of Health and Human Services has primary responsibility for the Exchanges. But to the extent that Treasury is involved in the matter, if confirmed, I look forward to working with the Committee on the issue.

Question 10:
What will be the annual budget costs for states implementing a Partnership Exchange under PPACA, for both states and the federal government?

Please see my answer to Question 9.

Question 11:

What will be the annual budget costs for states implementing State-based Exchanges under PPACA?

Please see my answer to Question 9.

Question 12:

Last December, CMS issued a Frequently Asked Questions document that noted that CMS has proposed that issuers pay a monthly user fee to support the operation of the Federally

Facilitated Exchange, specifically proposing a fee rate of 3.5 percent of premiums. How much will this fee increase the cost of premiums for consumers receiving health insurance through the Federally Facilitated Exchange? Will this increase be more or less than the increase in premiums due to the health insurance tax under the President's health care law?

Please see my answer to Question 9.

Question 13:

President Obama has been a vocal advocate of Pell Grants. During the 2012 campaign, he highlighted the fact that Pell Grants had doubled during his tenure. During this time, however, eligibility requirements have changed while keeping the current maximum award level, causing nearly 200,000 students, through summer, Ability-to-Benefit, etc., to lose access. What is the Administration's plan for reforming Pell so eligibility changes like these will not endanger eligibility for others?

The President is committed to making college more affordable. As you note, Pell grant spending has doubled during his time in office and the President's Budget demonstrates his continued commitment to Pell and to college access more generally.

Question 14:

Given your close involvement in the creation of the State Department's first QDDR, what further steps or necessary tools do you believe the U.S. must pursue in order for diplomacy and development efforts to work together more effectively?

The QDDR provides a blueprint for elevating American "civilian power" to better advance our national interests and to be a better partner to the U.S. military. It provides a framework for coordinating the resources of all America's civilian agencies to prevent and resolve conflicts; help countries lift themselves out of poverty into prosperous, stable, and democratic states; and build global coalitions to address global problems. We must continue to tap the expertise of all parts of the U.S. government to advance these goals and, if confirmed, I will seek to ensure that the Treasury Department plays an active and constructive role in this process.

Question 15:

An important function of the Treasury Department is its work with multilateral development banks. How would you describe the approach you would take as Secretary toward strengthening U.S. engagement with multilateral development banks to reduce poverty in developing countries and also encourage private sector investment?

U.S. support for the MDBs and their objective to reduce poverty is a cost-effective way to support future economic growth; address key global challenges, such as food insecurity and environmental degradation; and promote our national security. With U.S. support, the MDBs have been able to increase their efforts to promote these goals.

If confirmed, I look forward to strengthening the strong U.S. leadership at the MDBs.

Question 16:

On Iranian sanctions, given new reports of Iran's attempts to evade sanctions through use of exchange houses and trading companies, use of fraudulent shipping documents and false vessel/flag registration credentials, what is your commitment to greater enforcement of sanctions against Iran?

As a result of the efforts of the United States and its partners around the world, Iran today is more isolated than ever, especially on the economic front. Treasury has a strong record of aggressively pursuing Iran's financial networks and implementing sanctions against Iran and those individuals, entities, and banks that violate our sanctions. If confirmed, Treasury will continue to aggressively target individuals, entities, or banks that engage in sanctionable activity, wherever they may be.

Question 17:

If confirmed as Secretary of Treasury, you would sit on the PBGC Board of Directors along with the Secretary of Labor and the Secretary of Commerce. One of the biggest challenges facing the PBGC is the funding and viability of the multiemployer system. Recently, the PBGC released three major status reports. The first two reports are more than a year overdue and concern the funding and viability of the multiemployer system. The third report is the 2012 PBGC Exposure Report that details the anticipated solvency/liability issues of the PBGC for both its single employer trust fund and the multiemployer trust fund. To what extent did OMB or other White House staff under your direction participate in the preparation of these reports?

I am not aware whether White House or OMB staff members participated in the preparation of the Pension Benefit Guaranty Corporation reports referenced in your question. I understand that OMB and White House staff reviewed the reports prior to release, consistent with typical practice regarding similar agency documents.

Question 18:

Were you aware the reports were late and do you have an explanation for the lateness of the reports?

I was not aware that the reports were late and would refer you to PBGC for an explanation of why they were late.

Question 19:

Were you personally aware that the current law multiemployer provisions of the Pension Protection Act expire at the end of 2014?

I am generally aware of the Pension Protection Act (PPA). As I understand it, as the PPA was taking effect in 2008, the economy and financial markets underwent significant shocks, causing losses to both multiemployer plans and their contributing employers. Subsequent enactment of funding relief in 2008 and 2010 (the Worker, Retiree, and Employer Recovery Act and the Pension Relief Act, respectively) changed the implementation of multiemployer plans by funding improvement and rehabilitation plans provided for by the PPA. As I understand it, these provisions expire at the end of 2014.

Question 20:

The Pension Protection Act required the PBGC and agencies to provide Congress with recommendations for the reauthorization process. The PBGC and agencies declined to provide those recommendations in the report. Why have they declined to make these recommendations and when will they be forthcoming?

As a nominee, and not a current employee of the Treasury Department, I have not yet been involved in these issues. However, I believe that it is important that Congress have the benefit of recommendations from the PBGC and the Board member agencies to help facilitate the reauthorization process.

Question 21:

What policies do you have in place to monitor and ensure compliance with Congressionally mandated reporting requirements?

As a nominee, and not a current employee of the Treasury Department, I would refer you to Alastair Fitzpayne, Assistant Secretary of the Treasury for Legislative Affairs for information regarding congressionally mandated reporting requirements.

Question 22:

How many Congressionally mandated reports are currently delinquent?

See response to Question 21.

Question 23:

Is compliance actively tracked and how?

See response to Question 21.

Question 24:

As White House Chief of Staff or as Director of OMB, have you made recommendations or do you have recommendations for addressing the health of the multiemployer system?

I have not made any recommendations for addressing the health of the multiemployer system. I understand the Pension Benefit Guaranty Corporation ("PBGC") recently issued a report addressing the multiemployer pension system. I expect that the PBGC, as well as the federal agencies that sit on its Board of Directors—the Departments of the Treasury, Labor, and Commerce—will continue to gather information, examine the issue, and work with Congress and stakeholders to discuss potential policies for strengthening the multiemployer pension system and protecting the retirement of millions of workers and retirees.

Question 25:

Would you support or oppose a taxpayer bailout of either the single or multiemployer system?

The defined benefit pension system does not rely upon support from taxpayers. Individual employers choose whether to establish or join a pension, and employers are responsible for funding those plans. The insurance provided by the Pension Benefit Guaranty Corporation ("PBGC") to protect the benefits of workers and retirees is funded through premiums paid by employers as well as the assets of plans that have been trusteed by the PBGC. This Administration has previously proposed ideas to protect workers and retirees in single and multiemployer plans that include increases in premiums to strengthen the PBGC insurance program. However, it may be the case that broader legislative action is needed, and there are numerous proposals that may be considered by Congress in the next few years. The Administration has not yet developed a position on any such proposals. I expect the PBGC, as well as the Departments of the Treasury, Labor, and Commerce, will continue to examine the issue and will work with Congress and stakeholders on potential policy solutions.

Question 26:

What is your rationale for your viewpoint on bailing out the single or multiemployer pension system?

Please see my answer to Question 25.

Question 27:

In your recent White House tenure, you have had budgetary responsibilities including proper stewardship of tax payer dollars. A recent GAO study entitled "Davis-Bacon Act: Methodological Changes Needed to Improve Wage Survey" has been published by the Government Accountability Office (GAO), highlighting serious flaws in how wages are determined under the Davis-Bacon Act and recommended steps for the U.S. Department of Labor (DOL) to take in order to remedy some of the issues. Knowing that Davis-Bacon significantly affects the cost of government projects, what is your view of these recommendations as former OMB Director and White House Chief of Staff?

I agree that it is important to improve the timeliness and accuracy of wage surveys under the Davis-Bacon Act. The Department of Labor has statutory authority to conduct these surveys, and I understand the Department has taken a number of steps to address the issues identified in the GAO report referenced in your question.

Question 28:

Under your leadership, where is the Administration on implementation of the GAO recommendations?

Please see my answer to Question 27.

Question 29:

According to GAO, the DOL rejected their recommendation that they obtain objective expert advice on its survey design. Do you believe the DOL should use an independent statistical organization?

I have not had an opportunity to study the issue in detail, and the Department of Labor has statutory authority to conduct these surveys. As a general matter, federal agencies make determinations regarding whether to retain outside organizations to assist in their work based on a variety of factors, including cost.

Question 30:

Has the Administration complied with Congressional requests to provide all documentation concerning the its role in the decision-making that led to certain Delphi pension beneficiaries being treated differently during the 2009 General Motors Company (GM) bailout?

I understand that over the past three and a half years, the Administration has shared with Congress extensive information about the bankruptcies of General Motors and Delphi—including, in particular, the treatment of the Delphi pension plans. In a November 2012 letter to Chairman Camp, Treasury described the voluminous and detailed public record. Treasury, the Pension Benefit Guaranty Corporation, GM, Delphi, and others have produced thousands of pages of material and have made senior officials available to testify at numerous public hearings. In the same letter, Treasury identified the specific documents in the public record that address each of the issues raised by the Committee. In addition, Treasury offered to discuss any remaining issues with the Committee, stating that "if you believe there are specific matters that the existing record does not adequately address, we would be happy to discuss them with you or your staff."

Question 31:

Regarding the above question, can you certify that the Administration has produced all responsive documents or provide a privilege log for any documents withheld?

Please see my answer to Question 30.

Question 32:

What is the President's current position on reducing the charitable deduction?

I recognize the important role played by our nation's charitable sector. Through our charities, millions of Americans join together, contributing funds and volunteer hours, to meet the needs of their communities. Charities provide healthcare, social services, and disaster assistance to those in need, among other things. They conserve our natural resources and expand the boundaries of our knowledge through scientific research. And they enrich our communities through education, athletics, and the arts.

Unlike some other proposals to curb tax expenditures, the Administration's previous Budget proposal to limit the value of itemized deductions and certain other tax expenditures to 28 percent would have a modest impact on the incentive to make charitable gifts. This is because the tax incentive on the last dollar of giving potentially would be somewhat reduced but not eliminated. Moreover, only a small fraction of taxpayers – married couples with incomes in excess of $250,000 and single taxpayers with incomes in excess of $200,000 – would be affected by the proposal. Charitable giving by non-itemizers and taxpayers with incomes below these thresholds – the vast majority of donors – would not be affected by the proposal.

The Administration's FY 2013 Budget proposal to limit the benefit of itemized deductions to 28 percent is intended to be an even-handed approach covering all itemized deductions and is not intended to single out the charitable sector. But the Administration is also looking forward to a broader dialogue about tax reform and as part of that discussion would be open to discussing alternative ways of treating charitable deductions to ensure that the incentive is cost effective and fair. If confirmed, I look forward to working with this Committee to ensure that our tax system is fair and efficient, and appropriately supports our charitable sector.

Question 33:

How has his position on the charitable deduction evolved over your tenure?

The Administration has remained committed to maintaining a charitable deduction throughout the President's time in office.

Question 34:

What role have you played in the consideration of changes to the deductibility of charitable contributions and what is your current position?

Please see my answer to Question 32.

Question 35:

What is the President's current position on retirement tax incentives?

Particularly in light of the increasing average age and longevity of America's population, I believe that tax incentives for retirement savings should play a vital role in helping support our pension, 401(k), and other employer-sponsored plans, and promote retirement security for everyone. The Administration's commitment to encouraging retirement savings has been evident in the Administration's budget proposals to expand retirement coverage, encourage greater tax-favored retirement savings through automatic enrollment in IRAs (with the ability to opt out) for employees without a workplace retirement plan, and its efforts to promote and expand 401(k) and similar plans through automatic enrollment. It is important that these programs and incentives be designed so that their benefits extend to as many taxpayers as possible, especially those in the middle and lower ranges of the income scale.

Question 36:

What role have you played in the consideration of changes to retirement tax incentives and what is your current position?

In my view, tax incentives to encourage pensions, 401(k)s, IRAs, and other retirement plans and retirement savings are an important means of promoting adequate retirement security for our population. As a matter of policy, it is important that retirement tax incentives be designed to be effective and efficient and to promote an appropriate allocation of retirement and tax benefits to moderate- and lower-income workers and households.

Question 37:

Legislation known as the Public Employee Pension Transparency Act has been considered by Congress and the provisions of the bill relate to the Treasury Department and the budget. Under the bill, State and local pension plans will report two sets of information to the Secretary of the Treasury which will be made available on the internet for public review. The first set of numbers will detail current public pension liabilities based on existing accounting methods. The second set of numbers will detail the current pension liabilities but will do so using uniform guidelines. Do you support these provisions?

The financial health of public pension plans is a very important topic to millions of Americans. have not yet had an opportunity to fully develop a policy position on this particular bill, but if confirmed, I look forward to working with the Congress on the issue.

Question 38:

What is the reason for your view (for or against) providing taxpayers with an apples-to-apples comparison of pension liabilities across jurisdictions?

Transparency of public pension plans is a very important topic. I have not yet had an opportunity to fully develop a policy position on this particular bill, but if confirmed, I look forward to working with Congress on the issue.

Question 39:

Do you agree with the provision of the bill that says that State and local governments that refuse to report their public pension liabilities should be denied the ability to issue federally tax-exempt bonds? What is the reason for your view?

I have not yet had an opportunity to fully develop a policy position on this particular bill, but I am aware of the importance of tax-exempt bond issuance as a critical source of funding for states, municipalities and other local entities.

Question 40:

Finally, the bill rejects the possibility of a federal bailout of state and local pension programs. Do you agree that the federal government should not bail out state and local pensions?

I support the efforts of state and local governments and pension plans to meet their own financial obligations and, if confirmed, I look forward to working further with the Congress on the issue.

Question 41:

The recent fiscal cliff extension of additional federal unemployment benefits included a provision called the "non-reduction" clause that forbids states from making certain benefit modifications to their plan. Who in the Obama Administration crafted and supported this provision?

In formulating his policies, the President considers a wide range of input from the agencies. The President is committed to ensuring that unemployment insurance continues to be a safety net for those suffering from job loss.

Question 42:

What was the policy rationale behind the "non-reduction" provision?

As our economy recovers, we must make sure that those suffering from job loss have a strong safety net. The American Taxpayer Relief Act of 2012 aims to maintain the strength of the protections provided by unemployment insurance.

Question 43:

Does the "non-reduction" clause in fact cause a benefit reduction should a state modify its benefit structure?

I understand that the non-reduction clause contains limitations relating to state reductions of unemployment benefits. Nonetheless, I also understand that states maintain the ability to change the structure of unemployment benefits in ways consistent with this clause.

Question 44:

What policy objective does the Federal government seek to achieve in unemployment benefit reductions through the clause mentioned above?

Please see my answer to Question 42.

Question 45:

Acting Secretary of Labor Seth Harris stated in an official statement that he has no flexibility to modify the non-reduction provision. Is the Administration seeking flexibility to modify the non-reduction clause?

Please see my answer to Question 42.

Question 46:

Did you support the "non-reduction" provision that was part of the unemployment benefit extension?

The President signed the American Taxpayer Relief Act of 2012, which included an extension of unemployment benefits and a number of other provisions. I support the President's policies, including those on unemployment insurance.

Question 47:

Legislation in the Middle Class Tax Relief and Jobs Act of 2012 passed Congress and was signed by the President with a provision to "restore state flexibility to improve unemployment program solvency". Why should different states be treated differently now?

As our economy recovers, we must make sure that those suffering from job loss have a strong safety net. The President's policies aim to maintain the strength of the protections provided by unemployment insurance.

Question 48:

The Secretary of the Treasury serves as Managing Trustee of the Social Security program. According to the Social Security Trustees, Social Security Disability Insurance's trust fund is expected to be exhausted by 2016. Because SSDI is legally required to run a cash positive balance sheet, that would mean a 79% cut to benefits in order to serve the 11 million

Americans currently receiving SSDI payments. It would also mean that no new disability entrants would be accepted. What is your plan for averting this crisis to SSDI in the next two years?

The projected exhaustion of the DI Trust Fund requires attention and modernization to ensure that the disabled and those who may need the program in the future can continue to count on the benefits provided by disability insurance. In order to achieve this goal, the Administration has been looking at ways to improve the administration and performance of the program so that it is more efficient and better serves the needs of the disabled, now and in the future. If confirmed, I would look forward to working with the Congress on this issue.

Question 49:

Will the President's forthcoming budget contain a solution for the millions of Americans who are beneficiaries of the Social Security Disability Insurance (SSDI) program?

This question refers to the Administration's FY 2014 budget, which has not yet been released. If confirmed, I look forward to addressing this and related issues once that budget is released.

Question 50:

During his inaugural address, President Obama said "the commitments we make to each other...through Social Security – these things do not sap our initiative; they strengthen us." Do you plan to strengthen SSDI's trust fund so we can continue to make this commitment to current and future disabled Americans?

The Administration believes that strengthening the SSDI trust fund is a key aspect of reforming the program. If confirmed, I hope to work with the Congress to modernize the DI program so that it best serves the disabled population and is in a secure position to continue to serve those who need it in the future.

Question 51:

The Secretary of Treasury serves as the Managing Trustee of Social Security. SSA's Commissioner Michael Astrue has told Congress that the backlog of disability reviews is a significant driver of the trust fund's solvency issues. As you know, declining Continuing Disability Reviews (CDRs) are an increasing problem as the medical conditions of beneficiaries are put off. Further, for every $1 invested in CDRs $9 is saved for the trust fund. Do you support focusing SSA's resources on CDRs?

Please see my answer to Question 52.

Question 52:

Does the Administration plan to reform the SSDI CDR process so that they are completed in a timely fashion rather than shifting focus to benefit administration as is current practice?

I understand that the Administration's FY 2013 Budget included funding to more effectively and efficiently process thousands of continuing disability reviews to enhance program integrity for long-term savings. I support these efforts.

Question 53:

President Obama announced this week that the United States and the European Union would be launching negotiations on a Transatlantic Trade and Investment Partnership. What steps will the Administration take in negotiating this agreement to address the barriers to U.S. agriculture exports to Europe?

I strongly support the President's intention to launch comprehensive negotiations with the European Union under the Trans-Atlantic Trade and Investment Partnership (TTIP). The TTIP provides an opportunity to deepen the already extensive trade and investment relationship between the United States and the European Union and promote mutual growth and job creation. A key focus of the negotiations is to expand the exports of U.S. agricultural goods into European markets. If confirmed, I would work with USTR, USDA, the Department of State, and other U.S. agencies to achieve an agreement that opens EU markets to U.S. exports.

Question 54:

Because the Department of Education is now the largest lender of student loans in the nation, do you believe it would make more sense to move loan origination and disbursement for federal student loans from the Department of Treasury? Why or why not?

Student loans are a critical part of the Administration's goal to increase access to higher education. Without federal student aid, many students, particularly low-income students, would be unable to access and complete a post-secondary education. While the Department of Education has historically been the home of student lending operations, it is my understanding that Treasury plays an important role in financing direct loans and supporting delinquent debt collection across the government. If confirmed, I look forward to working with the Department of Education and this committee to continue improving administration of the student loan program.

Question 55:

In 2011, the Treasury Inspector General for Tax Administration (TIGTA) reported that 2.1 million taxpayers received $3.2 billion in AOTC credits that appeared to be erroneously claimed. The vast majority were due to IRS being unable to confirm that the students actually attended postsecondary education. This suggests IRS' guidance to filers, not necessarily fraudulent behavior, is to blame. Considering TIGTA's report and conclusions

on IRS' administration of the American Opportunity Tax Credit (AOTC), do you think the program is flawed in its structure?

The American Opportunity Tax Credit provides millions of students and their families with funds to help pay for college and other post-secondary training. Unfortunately, some people are claiming funds to which they are not entitled. Strong enforcement measures are necessary so that the IRS, with the help of Treasury and Congress, can ensure that everyone who receives an AOTC is entitled to this credit.

My understanding is that IRS and Treasury are working to improve forms and instructions. The Administration's FY 2013 Budget also includes a proposal to allow IRS to deny the AOTC to taxpayers who have exceeded lifetime limits during routine tax return process, using math error authority rather than more expensive and cumbersome taxpayer audits.

Question 56:

Do you have suggestions for how the AOTC can be improved so fraudulent claims don't enhance program costs?

Please see my answer to Question 55.

Question 57:

Please provide the Fiscal Year 2012 total operating expenses for the Consumer Financial Protection Bureau (CFPB).

The CFPB is an independent bureau of the Federal Reserve System. According to the FY 2013 President's Budget, CFPB estimated they would spend $356 million in FY 2012.

Question 58:

By Treasury's calculations, what is the fair market value of the following loan programs per fiscal year?

a. **Stafford and PLUS student loan programs;**

b. **FHA loan programs (all loan programs therein);**

c. **Small Business Administration (all loan programs therein).**

While the Departments of Education and Housing and Urban Development, the Small Business Administration, and OMB are best placed to answer questions about the budgetary treatment of specific programs, you raise an important question about the budgetary methodology associated with credit programs. If confirmed, I look forward to working with the committee on the issue.

Question 59:

What is the difference in cost between the Fair Credit Reform Act (FCRA) accounting and a fair market value accounting for the above programs?

While the Departments of Education and Housing and Urban Development, the Small Business Administration, and OMB are best placed to answer questions about the budgetary treatment of specific programs, you raise an important question about the budgetary methodology associated with credit programs. If confirmed, I look forward to working with the Committee on the issue.

Senator Isakson

Question 1:

The Dodd–Frank Act of 2010 was touted as a bill designed to prevent another financial crisis. However, I believe that there are serious unintended consequences of well-intended regulations within the bill. I'm also concerned about those who have worked and continue to work in senior capacities in President Obama's Administration, who have mostly public sector experience and lack the private sector knowledge needed to prevent such unintended consequences from occurring in the first place. As Treasury Secretary, you would be responsible for promulgating various parts of Dodd-Frank with the goal of providing the least systemic risk on our financial system.

I would be very interested in hearing from you on what parts of Dodd-Frank you believe to be potentially harmful and which provisions you believe will prevent another financial crisis?

I think the Dodd-Frank Act has been an important step to make the financial system more resilient to the kinds of shocks we saw in 2008 and to reassert proper regulatory oversight of an industry that is critical to the health of our economy. The regulators are working hard to complete the implementation of the Dodd-Frank Act while taking into account these considerations through public comment and stakeholder engagement. I believe they should complete their work before prejudging outcomes.

Question 2:

The passage of the Fiscal Cliff Bill entitled the American Taxpayer Relief Act of 2012 (ATRA) quickly helped boost investor confidence. In the first week of January, mutual funds investing in US stocks attracted $4 billion in net deposits and funds investing in foreign stocks took in about $3.5 billion. This $7.5 billion total investment into stock funds was the largest since the week ending May 2, 2001. I believe that capital still remains on the side lines and will not be invested back into our economy until even greater transparency for long-term planning is provided.

What actions at the Treasury Department do you believe will most effectively restore the flow of credit back into our economy?

The American Taxpayer Relief Act of 2012 helped to reduce fiscal uncertainty by extending lower tax rates for the middle class and providing clarity to businesses on a number of tax provisions. Continued progress to resolve our fiscal challenges, while supporting economic growth in the near term, gives investors and businesses confidence to bring capital and investment back into our economy. Moreover, the pro-growth policies proposed by the Administration support economic activity and increase investor confidence as a consequence. As a result, I would expect these policies, if fully enacted, to also help draw in capital from the sidelines and be put to productive use, thereby further strengthening economic growth.

Question 3:

The US corporate tax rate is among the highest and least competitive of all developed nations. Some in Congress believe that if the government increases the tax rate on corporations, they will in turn give the government more tax revenue with no negative consequences. But it is just the opposite as tax hikes reduce investment and business creation. The business community has consistently addressed the need to tackle this issue in the near future for fear of lower domestic investment and less entrepreneurship. One business leader, Fred Smith who is the CEO of FedEx, told me that if FedEx had a 25% corporate tax rate with no deductions he could compete with anyone in the world.

Do you feel that the corporate tax rate should be reduced and if so, to what level and why?

America's system of business taxation is in need of reform. The United States has a relatively narrow corporate tax base compared to other countries and a statutory corporate income tax rate that is nearly the highest among advanced countries. As a result of this combination of a relatively narrow tax base and a high statutory tax rate, the U.S. tax system is less competitive and inefficient. The system does too little to encourage job creation and investment in the United States while allowing firms to benefit from incentives to locate production and shift profits overseas. The system is also too complicated—especially for America's small businesses.

For these reasons, the President is committed to reform that will support the competitiveness of American businesses—large and small—and increase incentives to invest and hire in the United States by lowering rates, cutting tax expenditures, and reducing complexity, while being fiscally responsible.

In February of last year, the White House and the Treasury issued a joint report outlining the President's Framework for Business Tax Reform, which provides an approach to tax reform that will support high quality jobs in the United States. The Framework suggested that the statutory corporate income tax rate could be reduced to 28 percent in general and the effective marginal rate reduced to 25 percent for manufacturing. I support such a balanced and fiscally responsible reduction in the corporate income tax rate.

Question 4:

More than $1.1 trillion dollars of commercial real estate loans written before the financial crisis will need to be refinanced in the next three years. If commercial real estate borrowers can't secure other funding options when these payments come due, commercial properties across the country will go into foreclosure, leaving communities with even more vacant storefronts, lost jobs, lower tax revenues and a deeper economic hole to dig themselves out of. In 2007, the IRS issued guidance that overturned long-standing policy and, for the first time, treated domestically-controlled REIT liquidating distributions and redemptions with respect to foreign investors as sales of property under FIRPTA rather than sales of stock.

Do you agree that particular sections of IRS Notice 2007-55 have in fact discouraged foreign capital from reentering the US real property market? If confirmed, would you be willing to reinstate an IRS position to allow redemptions and liquidating distributions to be treated the same as sales of stock in the case of a domestically controlled REIT in conjunction with increasing the exemption level from 5 percent to 10 percent for investors in certain widely held qualified collective investment vehicles?

I understand that FIRPTA generally subjects foreign investors' gains from the sale of U.S. real property to the same net-basis taxation that is imposed on U.S. taxpayers. I have not yet had an opportunity to fully develop a position on Notice 2007-55 but, if confirmed, look forward to working with the committee to create a fair and efficient tax code so that foreign and domestic investors in U.S. real property are on a level playing field.

Question 5:

Since 1980, Congress has only twice completed the appropriations process before October 1st. A two-year budget cycle would allow Congress to devote every other year to reviewing these authorizations and the enhanced oversight will result in more accountability of government programs and reduce waste. I found your prior testimony in February and March of 2000 before the House Rules Committee where you indicated support for the Biennial Budget concept very interesting.

As you know, the Biennial Budgeting process is designed to provide greater stability and predictability in the congressional budget process. As Treasury Secretary, do you believe a move from a one-year budget cycle to a two-year cycle in Congress would provide greater confidence to our financial markets?

Sound budget planning is essential to achieving our fiscal priorities. I have supported a biennial process before in order to improve the accountability and oversight of budgeting. Whether budgeting is done on an annual or biennial basis, our goal should be to move toward fiscal sustainability in a way that is balanced and safeguards our economic recovery.

Question 6:

The Patient Protection and Affordable Care Act requires employers who offer health benefits to pay a tax equal to $3,000 per year for any employee who receives a premium tax credit for coverage through a health insurance exchange. Section 1401 of PPACA authorizes premium tax credits for individuals who obtain coverage through "an Exchange established by the State under Section 1311." No premium tax credits are authorized for coverage through a federally-run exchange, which is described in a different section of the law.

As you know, my state of Georgia is one of 26 states that have chosen not to establish a state-based exchange. Since the law does not authorize premium tax credits for enrollment in a federally-run exchange, Georgia employers who offer health benefits should not have to worry about facing this new tax. Yet, a rule issued by the IRS last year disregards the

plain language of the law and calls for premium tax credits and corresponding taxes on employers in states with federally-run exchanges.

Do you agree that the IRS does not have authority to impose a tax that has not been expressly authorized by Congress? What action will you take to ensure that taxpayers in Georgia and 25 other states are not assessed an illegal tax?

I believe that Treasury has a responsibility to implement the laws passed by Congress in a careful and thoughtful manner. Although I was not involved, my understanding is that for this regulation, Treasury's Office of Tax Policy (OTP) and the Internal Revenue Service (IRS) followed their standard process for drafting, approving, and publishing tax regulations generally. I also understand that the public submitted numerous written and oral comments in response to the proposed regulation; that both OTP and IRS reviewed each comment carefully; that for this issue, OTP and IRS concluded that the statute should be best suited to resolve this matter.

Question 7:

IRAs are the fastest growing source of retirement savings in the United States, holding a total of $4.7 trillion in assets. As Treasury Secretary you would be responsible for managing a retirement savings vehicle, the IRA, that holds more assets than Defined Benefit plans or Defined Contribution plans. The Department of Labor is currently working on re-proposing a rule that impacts Treasury's jurisdiction over IRAs by redefining Tax Code provisions related to retirement savings. The Labor Department's original proposal impacted the Tax Code in such a manner that contradicted Dodd-Frank's "business-model neutral" policy because it would have effectively compelled broker-dealers marketing IRAs to adopt an asset-based advisory model.

According to an SEC staff report that studied imposing a "uniform fiduciary rule" under Section 913 of Dodd-Frank, "If...broker-dealers elected to convert their brokerage accounts from commission-based accounts to fee-based accounts, certain retail customers might face increased costs, and consequently the profitability of their investment decisions could be eroded, especially accounts that are not actively traded." In short, eliminating commission-based representatives does more harm than good for retail investors. Most IRAs are just such accounts with 88% of IRA investors using a commission-based representative to service their account.

As the Department of Labor develops a new rule that will impact IRA tax code provisions, how would you work as Treasury Secretary to ensure the Labor Department's impact on the tax code complements Dodd-Frank's "business-model neutral" policy so that retail savers continue to have affordable access to IRAs without facing any increased costs?

I support the business-model neutral policy articulated in connection with Dodd-Frank, and I would work to advance that policy if confirmed. My understanding is that the specific DOL rule to which your question refers is a proposal, which was withdrawn for further consideration, relating to the meaning of the term "fiduciary" under ERISA. If confirmed, I would encourage

the Departments to work together to further the common objective of assuring that retirement savers have access to affordable IRAs without unnecessary costs or burdens.

Question 8:

Expanding trade must be a cornerstone of any administration policy for economic growth and job creation. Despite this, it took almost three years before the free trade agreements with South Korea, Colombia and Panama were finally acted on by the Administration despite being negotiated well before President Obama took office. The Treasury Secretary plays a key role in shaping and promoting U.S. trade policy and there are currently multiple trade issues that need to be addressed including the Trans-Pacific Partnership, a possible U.S.-E.U. free trade agreement, and the renewal of Trade Promotion Authority.

If confirmed, how would you work to promote a robust trade agenda and move forward on many of these trade issues?

I understand that the National Export Initiative goal of doubling exports is a cornerstone of the President's growth and job creation strategy. In 2012, U.S exports of goods and services set a record of almost $2.2 trillion, and exports have supported and helped create over 6 million private sector jobs over the past 35 months.

If confirmed, I would work closely with USTR and other agencies, as well as domestic stakeholders and Congress, to advance the President's efforts to create new market opportunities by forging new international agreements such as the Trans-Atlantic Trade and Investment Partnership with the European Union and the International Services Agreement, once domestic procedures are concluded, and to complete the Trans-Pacific Partnership negotiations.

In addition, I believe that we should continue to enforce our trade rights aggressively both domestically and in the WTO. I believe that this multi-pronged approach on trade can give a strong boost to the U.S. economy and support jobs for more Americans.

Question 9:

Despite U.S. and international efforts, some banks have ignored sanctions and continue to conduct business with designated Iranian entities. To date the Treasury Department has sanctioned just two non-Iranian foreign banks for continuing to conduct significant financial transactions with sanctioned banks, but there is ample information in the public sphere that other banks have violated our laws with impunity by conducting significant transactions with sanctioned banks.

Will you pursue punitive measures against foreign banks conducting business with Iran in violation of U.S. sanctions?

As a result of the efforts of the United States and its partners around the world, Iran today is more isolated than ever, especially on the economic front. Treasury has a strong record of aggressively pursuing Iran's financial networks and implementing sanctions against Iran and

those individuals, entities, and banks that violate our sanctions. If confirmed, Treasury will continue aggressively to target individuals, entities or banks that engage in sanctionable activity, wherever they may be.

Question 10:

In your position as Treasury Secretary, you would be responsible for representing the United States at the World Bank and several other multilateral development banks (MDBs).

I would like to know what your views are on the role of these institutions. Namely, what do you consider to be the most important U.S. national interests that are served through American participation in the MDBs? And please comment on the degree of effectiveness of the banks in leveraging U.S. contributions, both in terms of actual dollars and collective action more broadly, to multiply the impact of U.S. assistance.

If confirmed, I would continue strong U.S. leadership of the MDBs, which multiplies U.S. investments in shaping the global development agenda.

U.S. participation in the MDBs is one of the most cost-effective ways to promote our national security, support our future export markets and safeguard growth, reduce poverty, and address key global challenges. The MDBs help protect our national security by helping anchor economic reform in regions such as the Middle East and North Africa. The MDBs help to develop open, stable market economies that become the next generation of U.S. trading partners, supporting U.S. exports and jobs. The MDBs are well positioned to address global challenges, such as food insecurity, poverty, and environmental degradation.

U.S. support for the MDBs has a strong multiplier effect. For example, a U.S. capital increase contribution of $420 million made under the Reagan Administration helped support $325 billion in lending over the subsequent two decades.

Question 11:

China allowed financial institutions to increase their ownership stake in securities joint ventures from 33% to 49% following last year's Strategic and Economic Dialogue (S&ED). While China continues to impose ownership limits on financial institutions operating in China, Chinese financial institutions face no restrictions when seeking to operate in the U.S.

As China continues to liberalize its financial sector, what steps can be taken to ensure US financial institutions doing business in China are allowed to have 100% ownership of their venture?

I believe that financial sector liberalization is important to providing a level playing field for U.S. firms and workers, and that it is important to take steps to move China to a market-

determined exchange rate, and promote the rebalancing of China's economy towards home-grown, consumption-led growth.

Through the U.S.-China Strategic & Economic Dialogue (S&ED) and other ongoing engagement, I understand that the Administration has pressed China to liberalize its financial sector and allow for more meaningful access for U.S. financial firms. In the S&ED last May, China committed to move beyond its WTO commitments and allow U.S. and other foreign firms to take up to 49 percent equity stakes in securities joint ventures and futures brokers joint ventures.

If confirmed, I would press China to further advance financial sector liberalization and permit greater ownership stakes by U.S. and other foreign firms in an increased number of subsectors.

Question 12:

As you are aware, President Obama indicated during negotiations with Congress in 2011 that he was willing to consider a proposal to gradually increase the Medicare eligibility age from 65 to 67, bringing it into line with the full retirement age for Social Security. However, on February 11, White House Press Secretary Jay Carney stated that the President would oppose any increase in the Medicare eligibility age. According to data compiled by CDC's National Center for Health Statistics, life expectancy at age 65 has increased from 14.3 years in 1960 to 19.2 years in 2009. Furthermore, as the share of the population pursuing college and postgraduate degrees continues to grow, entry into the workforce is being delayed. Partly as a result of these trends, the ratio of workers paying Medicare and Social Security taxes to retirees receiving benefits continues to shrink.

Do you believe our current social insurance structure can hold up indefinitely as the ratio of workers to retirees keeps going down? If the Administration intends to oppose any increase in the eligibility age for retirement programs, how do you propose to address the demographic reality of increasing life expectancy?

Long-run entitlement reform to ensure solvency for those who rely on these programs will require difficult choices. The Administration is focused on addressing these challenges in order to assure that we fulfill our commitments to our seniors and others who rely on these programs. The major reforms the President achieved in the Affordable Care Act demonstrate this commitment, though there is still more work to do. Likewise, his past budget proposals find efficiencies in health programs, including Medicare. We must work together to ensure that current and future generations of Americans can count on these vital programs.

Question 13:

States increasingly are relying on sales tax revenues and are seeking ways to capture those revenues that are supposed to be remitted to them anyway through agreements like the Streamlined Sales and Use Tax Agreement (SSUTA) and other online retail taxes. This is the core of the Main Street Fairness Act proposal by Sens. Enzi, Durbin and Alexander.

Do you support legislative efforts in the House and Senate to facilitate the states collection of sales tax over the internet?

I agree that the system of collecting income, sales, and use taxes by State and local governments should be made simpler and provide clear, bright-line rules for state and local governments and taxpayers to follow. Simplifying the tax system and clarifying the rules would increase fairness and tax compliance, while reducing the burdens on the sellers and employers that would collect and remit such taxes.

Senator Portman

Question 1:

As General Motors Company's primary lender in bankruptcy, the Treasury Department played a substantial role in GM's 2009 bankruptcy and subsequent resolution of Delphi pensions. This involvement culminated in GM's decision to fund portions of hourly but not salaried Delphi pensions. Did the Treasury Department receive any communication, direction, or other influence from the White House on Delphi pensions?

As your question notes, the decision by General Motors regarding the pensions of certain Delphi hourly retirees, during the course of GM's bankruptcy, occurred in the summer of 2009. During that time, I was serving as Deputy Secretary of State for Management and Resources. I had no role or involvement in the bankruptcy of GM or the treatment of Delphi pensioners.

I understand that Delphi originally was a subsidiary of GM. In 1999, however, GM spun off Delphi into a separate independent company. In connection with that transaction, GM agreed to "top-up" pension benefit guarantees for certain Delphi hourly—but not salaried—employees. I understand that GM made this distinction, in part, because the salaried pension plan was fully funded, whereas the hourly plan was not.

In 2009, GM filed for bankruptcy. During the course of the subsequent proceedings, GM had to decide whether to honor the Delphi "top-up" agreements (along with many other obligations). The Presidential Task Force on the Auto Industry—which was supported by both Treasury and White House staff (the "Auto Team")—worked with GM as the company developed its reorganization plan. I understand that the Auto Team facilitated discussions between the Pension Benefit Guaranty Corporation, Delphi, and GM, and that GM ultimately made the decision to honor the preexisting Delphi top-up agreements. Treasury reviewed GM's decisions and approved its overall reorganization plan. In doing so, Treasury deferred to GM's business judgment, consistent with the Administration's longstanding shareholder principle that the "government will not interfere with or exert control over day-to-day company operations." I am not aware of any attempt by the Auto Team to influence GM's decision regarding the Delphi pension plans.

Question 2:

Did any official at the Treasury Department communicate with GM in any way to influence the company toward supporting Delphi hourly pensions, or against supporting salaried pensions?

Please see my answer to Question 1.

Question 3:

On August 13, 2012, House Ways and Means Committee Chairman Dave Camp requested that the Treasury Department provide "All records... that relate to: Delphi; and/or GM's

interest in Delphi." To date, the Treasury Department has only provided a selection of documents and has refused to certify that it has or will comply completely with the request. Does the Treasury Department plan to comply with the Ways and Means Committee's request?

I understand that over the past three and a half years, the Administration has shared with Congress extensive information about the bankruptcies of General Motors and Delphi—including, in particular, the treatment of the Delphi pension plans. In a November 2012 letter to Chairman Camp, Treasury described the voluminous and detailed public record. Treasury, the Pension Benefit Guaranty Corporation, GM, Delphi, and others have produced thousands of pages of material and have made senior officials available to testify at numerous public hearings. In the same letter, Treasury identified the specific documents in the public record that address each of the issues raised by the Committee. In addition, Treasury offered to discuss any remaining issues with the Committee, stating that "if you believe there are specific matters that the existing record does not adequately address, we would be happy to discuss them with you or your staff."

Question 4:

In the Treasury Department's most recent report on currency issues in November 2012, the Obama Administration said that China's currency "remains significantly undervalued, and further appreciation of the RMB against the dollar and other major currencies is warranted." The November report was the Obama Administration's eighth report on currency issues, and each time the Administration has failed to name China a currency manipulator, despite calling China's currency "persistently misaligned" as they did in December 2011. What concrete steps will the Treasury Department and the Obama Administration take to hold China accountable for their currency manipulation?

I understand that Treasury has been working aggressively both bilaterally and multilaterally to address China's exchange rate. Bilaterally, Treasury has been engaged in ongoing extensive efforts on this issue, including through the U.S.-China Strategic and Economic Dialogue. Multilaterally, including in the G-20, the IMF, and the WTO, Treasury has consistently underscored the importance of market-determined exchange rates to promote more balanced and sustainable growth, achieve more balanced global trade, avoid persistent exchange rate misalignments, and to accelerate the global adjustment of external imbalances.

Since June 2010, when China moved the renminbi off its peg against the dollar, the renminbi has appreciated by about 15 percent against the dollar in real terms. But more progress is needed. If confirmed, addressing China's exchange rate would be a top priority. I would press China to move to a market-determined exchange rate, level the playing field for our workers and firms, and support a sustained shift to domestic consumption-led growth in China.

Question 5:

I have been a long time supporter of the Tropical Forest Conservation Act (TFCA) and was an original sponsor of legislation that created the TFCA. The TFCA, administered by the

U.S. Department of Treasury and USAID, has been an important mechanism for providing opportunities for eligible countries to reduce a portion of their concessional debt owed to the U.S. Government in exchange for the payment of funds to support tropical forest conservation activities. As of December 2011, approximately US$194 million in Congressionally appropriated funds had been used to conclude eighteen TFCA debt-for-nature swaps with fourteen countries – generating more than US$295 million for conservation in these countries over the life of the agreements. The TFCA has demonstrated great success in building the capacity of local stakeholders to successfully manage their own financial resources dedicated to conservation. The TFCA has reinforced strategic partnerships between the U.S. and local stakeholders that support regional stability and are in the national security interests of the United States.

If confirmed, under your leadership will the Department of Treasury continue to support this important program?

I share your interest in supporting tropical forest conservation. If confirmed, I would consult with you on how best to advance the objectives of TFCA.

Question 6:

The TFCA was originally enacted in 1998 (PL105-214) and is in need of reauthorization. If you are confirmed, would Treasury be willing to provide technical assistance in drafting legislation to reauthorize the TFCA?

If confirmed, I would ensure that Treasury staff work with appropriate officials to provide Congress with technical assistance in drafting legislation to reauthorize the TFCA.

Question 7:

The TFCA applies to bilateral government debt resulting from concessional loans made under the Foreign Assistance Act of 1961 and credits granted under the Agriculture and Trade Assistance Act of 1954. If confirmed, would you provide to the Committee a list of countries with concessional debt eligible for consideration under the current TFCA program?

If confirmed, I would work with Treasury staff to send a list of countries with eligible concessional debt to the Committee as soon as possible.

Senator Toomey

Question 1:

In response to concerns that the bank-centric Basel 3 capital standards are unworkable for insurers, the Fed has indicated that it would perform some limited tailoring of those standards. However, there is continuing concern that this kind of limited tailoring is inadequate and does not properly acknowledge the wide differences between banking and insurance.

What kinds of more substantive changes will the Fed consider to the Basel 3 rulemaking to prevent negative impacts to insurers and the savers and retirees that are their customers?

To the extent that the issue involves the application of Basel III capital standards by the Federal Reserve Board to a particular sector, these are questions that the Federal Reserve Board would be in a better position to address.

Question 2:

Section 11 of the *Export Import (ExIm) Bank Reauthorization Act of 2012*required the Secretary of the Treasury to "initiate and pursue negotiations...with all countries that finance air carrier aircraft with funds from a state-sponsored entity, to substantially reduce, with the ultimate goal of eliminating, aircraft export credit financing for all aircraft covered by the 2007 Sector Understanding on Export Credits for Civil Aircraft." Section 11 also requires Treasury to submit annual reports to the Senate and House Banking Committees on the progress of those negotiations.

Although the Treasury Department submitted the statutorily required negotiation report in November of 2012, the department's response was lacking, providing more of a history of export credit financing than an update on negotiations.

a. **Will you commit to take immediate steps to eliminate all export financing for investment grade foreign airlines as well as for other airlines that have access to private market financing? If not, why not?**

b. **Please describe how you plan to lead the effort to work with the European ECAs to maintain a level playing field for U.S. airlines.**

c. **Detail your plan to begin negotiations with the European ECAs – called for in the 2012 ExIm Reauthorization – to substantially reduce or eliminate official export financing for wide body aircraft.**

I understand that in 2011 Treasury successfully negotiated new international guidelines for official export financing support of commercial aircraft sales, bringing that support more in line with the market. These new guidelines are to help ensure that official export credits for aircraft are used only when market financing is not available.

It also is my understanding that during these negotiations, France, Germany, and the United Kingdom were unwilling to reduce overall government-supported financing for aircraft purchases. Notwithstanding, I understand that Treasury has continued to engage its European counterparts on this issue, and together they are now coordinating with aircraft manufacturers, airlines, and others to benchmark the 2011 ASU fee rates against commercial-market financing of aircraft. I believe that this benchmarking will assist Treasury and the Europeans to further refine the guidelines so that they complement the commercial markets.

If confirmed, I would have Treasury continue to work to ensure a level playing field for all U.S. exporters. I also would have Treasury continue its engagement with its European counterparts about possible limitations on official export credit support for aircraft and seek to identify new opportunities to engage European partners to develop guidelines that limit official export financing to airlines with access to private market financing – so as to provide a level playing field for all U.S. exporters.

Question 3:

Do you think attracting private capital for mortgage backed securitizations is important to the recovery of our housing market?

If so, as Secretary, how will you work to attract private capital back into the mortgage finance market and shrink the government footprint?

Yes, attracting private capital and responsibly shrinking the government's footprint in housing finance over time are critical to the long-term stability of our housing market and to protecting taxpayer interests. However, we must balance policy actions that reduce the government's footprint against the need to preserve access to mortgages for creditworthy borrowers. In addition to winding down the GSEs, we must make it more attractive for private capital to take on more mortgage credit risk in a responsible manner. Many rules are being developed and implemented that will help give market participants clarity, such as the Qualified Mortgage rule. However, much work remains to be done. If confirmed, I look forward to supporting clear and transparent rules around housing finance.

Question 4:

How would you define the role of the Treasury Department in stopping Iran's nuclear ambitions?

I believe the Treasury Department performs a critical role in the Administration's efforts to halt Iran's nuclear ambitions by imposing increasingly powerful financial and economic pressure on Iran.

What additional sanctions do you believe are needed to succeed in our effort to thwart Iran's nuclear quest?

The President has made it very clear that it is unacceptable for Iran to have a nuclear weapon, and that all options must be on the table to achieve this objective. In service of this objective, I understand that the Treasury Department has imposed increasingly robust economic and financial sanctions on Iran, including sanctions that restrict Iran's access to its foreign exchange reserves and impair its balance-of-payments position; that target entities and individuals involved in proliferation, terrorism, human rights abuses, and regional destabilization; that identify and expose Iranian efforts to deploy deceptive schemes to evade sanctions; and that cut off from the U.S. financial system those who try to assist Iran in these efforts. I firmly believe that the imposition and implementation of robust economic sanctions is critically important to achieving the President's policy of denying Iran a nuclear weapon, and due to the intensive, collaborative efforts of the Congress and this Administration, as well as steps taken at our urging by partners around the world, the current sanctions regime on Iran is unprecedented in terms of scale, and scope and impact. If confirmed, I would support Treasury's efforts to implement fully existing sanctions and, as necessary, I would support additional actions that advance our shared objective of stopping Iran's nuclear ambitions.

Question 5:

In a September 2012 report discussing the Financial Stability Oversight Council (FSOC), the GAO criticizes the Council's lack of transparency regarding its deliberations on money market fund regulation and concludes, among other things, that the Council's minutes from a closed meeting in which the issue was discussed "lacked any content of the discussion".

What steps will you take to make these policy discussions more transparent to the public?

My understanding is that the Council has consistently maintained transparency with regard to the implementation of its specific authorities. For example, the Council provides notices of meetings, publishes the minutes of its meetings, and has issued several rulemakings and reports for public comment, including on money market mutual fund reform and the criteria for designating nonbank financial companies for Federal Reserve supervision and enhanced prudential standards. Moreover, the Council's annual report, which is provided to Congress and made available to the public online, provides a clear public record of its collective judgments, through its recommendations and assessments of threats to financial stability.

One of the central missions of the Council is to identify, monitor, and respond to emerging threats to financial stability. To fulfill this mission, I expect that the Council frequently discusses market developments and market functioning involving many companies and financial sectors. I would expect that these discussions are often preliminary and frequently involve market-sensitive and confidential supervisory information. I believe this is necessary to support the Council's ongoing work in fostering open dialogue, constructive coordination, and information sharing across it members.

If confirmed, I would work to foster the Council's continued transparency, to the extent feasible given the sensitivities outlined above.

Question 6:

Section 120 of the Dodd-Frank Act states that "[t]he Council shall consult with the primary financial regulatory agencies [...] for any proposed recommendation that the primary financial regulatory agencies apply new or heightened standards and safeguards for a financial activity or practice." In its November 2012 release on money market fund regulatory proposals, FSOC states that "in accordance with Section 120 of the Dodd-Frank Act, the Council has consulted with the SEC staff." It is my understanding that FSOC did not consult with any of the SEC Commissioners serving at the time.

Given that the SEC is solely governed by the commissioners, and especially considering that SEC staff serve at the will of the SEC Chairman rather than all Commissioners, how would such consultations with staff fulfill this statutory obligation going forward?

I have not had an opportunity to consider this matter in detail, but if confirmed, I would look to learn more about the FSOC's process on this issue.

Question 7:

Given the increased concerns about cybersecurity do you believe the Department has given the issue sufficient prominence? Are cybersecurity and critical infrastructure protection overseen at a senior enough level in the department?

I understand the Treasury Department has been one of the most active government agencies in the Administration's efforts to secure our nation's digital infrastructure. I understand that much of this work is conducted through the Financial and Banking Information Infrastructure Committee, a government-coordinating council chaired by the Treasury Assistant Secretary for Financial Institutions. If confirmed, I would chair the Financial Stability Oversight Council (FSOC) and I understand that the FSOC has been briefed on cybersecurity issues. I am also aware that Treasury has unique authorities, such as targeted financial measures, to help safeguard our national security; if confirmed, I would explore the possibility of using these authorities as part of our ongoing efforts to strengthen cybersecurity.

Additional Questions for the Record for Jack Lew
Received February 22, 2013, Submitted February 23, 2013

Ranking Member Hatch

New Questions:

Question 1:

During your nomination hearing, you noted that an early trip you took as an employee of Citigroup was to Billings, Montana to visit financial advisors.

When did you make this trip to Montana, who did you specifically meet with, and what did you discuss with the financial advisors you met with?

What other offices did you visit around the country during your time at Citigroup, between 2006 and 2009?

During your whole time at Citigroup, did you consistently meet with financial advisors?

Did any of the financial advisors you spoke with mention the ASTA, MAT, or Falcon funds?

Have you been interviewed by the Securities and Exchange Commission regarding the ASTA, MAT, or Falcon funds?

During my confirmation hearing, I mentioned that I traveled to Billings, Montana, early in my time at Citigroup, "to make sure that our business was working on the ground." Although I was based in New York City, I thought it was important to visit offices in relatively small cities and towns throughout the country to engage personally with my colleagues and to understand better their day-to-day businesses. I do not recall precisely when I traveled to Montana or with whom I met, given the passage of time, but I believe it was in the winter of 2006-07.

I do not recall discussions with financial advisors about any particular Citigroup funds. I was not interviewed by the Securities and Exchange Commission regarding the funds referenced in your question.

Question 2:

Was there any part of your compensation that you would not have received, but did receive, if you had not left Citigroup for a high-level government position?

During the pre-due diligence process, the Committee asked about the compensation I received from Citigroup before my departure in January 2009. In my response to the Committee—which I submitted on January 29, 2013—I described the components of that payment, which included "the vesting of restricted stock from previous years." If I had remained at Citigroup, that stock would have vested over time.

Follow Up Questions to Responses Received by Committee on February 20, 2013:

Question 3:

Response to Hatch Question 67(a): Do you believe that corporate tax reform ought to be done in a revenue-neutral fashion, in the interest of global competitiveness, while individual tax reform, which would influence taxes paid by flow-through business entities, ought not to be revenue neutral?

You provided a response, but not a response to the question that I asked.

I believe that in this time of medium and long-term fiscal challenges, tax reform has to be fiscally responsible. The tax system must collect sufficient taxes to pay for the services that the public expects us to provide in order to ensure our continued national security and general welfare. Within that constraint, tax reform efforts should rationalize the tax system so that it more effectively achieves the goals of efficiency, equity, simplicity, and growth.

As the President's Framework for Business Tax Reform noted, tax reform should make tax filing simpler for small businesses and entrepreneurs so that they can focus on growing their businesses rather than filling out tax returns. While some of the base-broadening provisions and other reforms described in the Framework would apply to both C-corporations and pass-through entities, the Framework also includes provisions so that small businesses, including small pass-throughs, receive a net tax cut from business tax reform. The President's Framework for Business Tax reform was intended to be fiscally responsible and not add to the Federal budget deficit.

Question 4 (Tax Policy):

Response to Hatch Question 67b: If so, do you believe that corporations require lower tax rates in order to boost their competitiveness but the competitiveness of flow-through businesses is either not influenced by their tax rates or is less important than corporate competitiveness?

You provided a response, but not a response to the question that I asked.

I believe that the comparatively high statutory corporate income tax rate in the United States, when combined with a relatively narrow tax base, creates a corporate income tax system that is not as effective as it should be. This reduction in the statutory tax rate has to be done in a fiscally responsible way, that is, by broadening the tax base. I do not believe that the decisions made by flow-through businesses are completely uninfluenced by tax rates nor do I think that the business activities of flow-through businesses are unimportant for the U.S. economy.

Question 5 (Tax Policy):

Response to Hatch Question 67e: Related to part d. above, how would you define a tax "loophole" and please provide me with, given your definition, a list of the five largest loopholes in the personal-income tax code and a list of the five largest loopholes in the corporate-income tax code.

You identified your ideas about what constitutes a "loophole" but did not provide lists of the five largest loopholes in the personal- and corporate-income tax codes. Your views on what are the largest "loopholes" would be instructive in the event that Congress and the administration engage in tax reform efforts to close agreed-upon "loopholes."

The President has suggested a number of policies that would tighten up the tax system by eliminating what many would call loopholes, and I support his recommendations. These include taxing carried interests as ordinary income, repealing the subsidies for fossil fuel producers, and restricting deductions for conservation easements. Again, without a technical definition, what constitutes a "loophole" is largely in the eye of the beholder. However, I believe that my support for these recommendations gives an indication of my overall views on this topic.

Question 6:

Response to Hatch Question 72d: If, as in c., you rely on Keynesian multipliers, please explain the mechanism you have in mind through which federal spending and/or tax changes lead to changes in GDP and employment, such as sticky prices, sticky wages, financial frictions, or other such rigidities in markets, and provide any evidence that you have consistent with those transmission mechanisms somehow leading to failures of market to clear.

You identified that the "general mechanisms underlying new Keynesian macroeconomics are widely accepted in modern mainstream macroeconomics; these include not only economic rigidities and frictions, but also the presence of spillovers, externalities, and public goods that may be present in Classical economics." You did not explain any particular mechanism that you have in mind through which federal spending and/or tax changes lead to changes in GDP and employment. General mechanisms in Keynesian theory are known. However, part of my question asks for any evidence you have consistent with those mechanisms being at work (measurement, not theory). You also identify "spillovers, externalities, and public goods that may be present in Classical economics." Please explain what you mean.

As I understand the approach, the general mechanisms I described are not mutually exclusive, so the impact of fiscal policy on economic activity need not rely on any particular one of these mechanisms. Any or all of them may be at work.

Regarding evidence, the general observation that prices and/or wages move slowly over the business cycle is consistent with broadly accepted economic principles. I also understand that there is a large body of research documenting slow-moving prices of individual goods. Moreover, the persistent underutilization of capital and labor (observed in unemployment and low capacity utilization), suggest frictions keep these markets from returning immediately to full-employment of our economic resources. Finally, with regard to spillovers, externalities, and public goods: Infrastructure or national defense fits the definition of a public good (a public good is one which individuals cannot be excluded from using, regardless of whether it is privately or publically provided), so that social benefits can exceed private returns. In these cases, there is a rationale for a government role. A spillover occurs when an economic activity affects other individuals, even if they are not directly involved in that activity; for example, higher employment benefits those who get jobs, but it also tends to reduce crime in communities. An

externality—either positive (such as lower crime) or negative (such as congestion) —is the result of a spillover.

Question 7:

Response to Hatch Question 86: In my first round of Questions for the Record I asked you about a provision in your employment agreement with Citigroup that concerned the treatment of your compensation upon your separation from Citigroup, and specifically if you accepted a "full-time high level position with the United States government or regulatory body." In your response to that question, you noted that "Given my long history of public service, and interest in potentially returning to it, I sought this provision." It is my understanding that when you met with bipartisan Finance Committee staff on February 4, you stated that you did not know how this provision became part of your compensation agreement and expressed a view that this provision was standard language.

Did you tell my staff that the high-level government position in your compensation agreement was standard, and if so, why didn't you tell them that you specifically sought the provision?

In negotiating your employment agreement, how long were you planning to work at Citigroup before returning to government, and had you already made plans to do so?

How did you and Citigroup determine what qualified as a full-time high level position with the government or a regulatory body. Please list all specific entities and positions that would meet this criteria?

Who specifically at Citigroup made the determination that Deputy Secretary of State satisfied the provision?

As your question notes, I met with bipartisan Committee staff for over three hours on February 4, 2013, as part of the "due diligence" process prior to my confirmation hearing. During that meeting, I answered all the questions that were asked, including several about my Citigroup employment agreement. To the best of my recollection, I told Committee staff that I believe Citigroup later adopted a provision similar to the one in my contract as standard policy. I described my belief that one purpose of deferred compensation (such as the vesting of stock compensation over time) was to prevent people from going to other firms by raising the price of people moving to private-sector competitors. The provision in my employment agreement did not violate that purpose, since it only applied to government service.

When I joined Citigroup, I had no plans or intent to leave the firm. As I noted in my previous submission to the Committee, there was general agreement that my departure from Citigroup to become Deputy Secretary of State satisfied the provision.

Question 8:

Response to Hatch Question 87a: Please identify any specific risk-taking activities of the Global Wealth Management and Citigroup Alternative Investment units that provided you with understanding of risks that we need to guard against.

Your response to Question 87 in general identified that you do not recall the specific Citigroup financial products, or investment funds referenced in the question. However, you did not respond to the request that you identify any specific risk-taking activities of the Global Wealth and Citigroup Alternative Investment units that provided you with understanding of risks that we need to guard against. Please respond.

At my confirmation hearing, I testified that, "I was certainly aware of things that were going on. I was working in a financial institution… There was a very bad financial situation going on in that year. There were products that were widely understood to be troubled. So, yes, I was aware that there were funds that were in trouble." I was referring to the general activities and practices that I observed at Citigroup and throughout the entire financial sector at the time. As I noted in my previous submission to the Committee, these included, for example, firms taking on increased leverage and risk, relying heavily on short-term funding sources (such as the repurchase or "repo" market), and creating increasingly complex financial instruments that lacked transparency.

Question 9:

Response to Hatch Question 95: In your response to Question 95, you stated "In regard to the IRS, I understand that pursuant to OMB guidance implementing E.O. 12866, and longstanding agreements between OMB and Treasury, only IRS legislative rules that constitute 'significant regulatory actions' are subject to E.O. 12866 review."

Please send any document which contains or reflects such "longstanding agreement."

As I noted in my previous submission to the Committee, I understand that this longstanding agreement originated during the Reagan Administration. I further understand that the initial agreement is memorialized in a Memorandum of Understanding between Treasury and the Office of Management and Budget, which was signed by Peter Wallison and Christopher DeMuth on April 29, 1983. I understand that Treasury is prepared to make the MOU available for your review.

Question 10:

Response to Hatch Question 102: Title I of the Dodd-Frank Act established the Financial Stability Oversight Council (FSOC) which is supposed to be a watchdog over possible threats to stability of the financial system—also known as "systemic risk.." Please provide me with your definition of "systemic risk" and identify specific metrics you would use to determine whether, when, and where there might exist systemic risks and threats to financial stability. Please also give me your views about possible current risks to financial stability from" a. The tri-party repo market; b. Money market mutual funds; c. The Government Sponsored Enterprises (GSEs), Fannie Mae and Freddie Mac; d. Competitive currency devaluations and any roles played by China's managed peg and by outsized quantitative easing policies pursued by the Bank of Japan and the Federal Reserve; e. Federal Reserve quantitative easing; f. The "fairly significant pattern of reaching-for-yield behavior emerging in corporate credit" as explained in Fed Governor Jeremy C. Stein's

February 7, 2013 speech at a symposium sponsored by the Federal Reserve Bank of St. Louis; g. Federal debt.

Your response identified that the Dodd-Frank Act "lists a number of non-exclusive factors that the Council must consider before determining that a nonbank financial company could pose a threat to U.S. financial stability and should be designated for Federal Reserve supervision and enhanced prudential standards. I would expect to focus on these types of risks in assessing threats to financial stability." I presume that you are referring to Section 113 of the Dodd-Frank Act, which applies to certain nonbank financial companies. However, risks to the system can emanate from more than just activities of specific nonbank financial companies. My question relates to more than simply Section 113 and includes duties specified for the FSOC identified in Section 112 (a)(2), such as monitoring the financial services marketplace in order to identify potential threats to the financial stability of the United States.

You also identified the FSOC views, as summarized in the Council's 2012 report, about risks associated with the tri-party repo market, money market mutual funds, housing finance, the low interest rate environment, and the federal debt. My question, however, asked for your views.

Please also respond fully to parts e. and f. of the question.

I believe that the factors identified in section 113 of the Dodd-Frank Act, and in the Council's interpretive guidance regarding its authority to designate nonbank financial companies for Federal Reserve supervision and enhanced prudential standards, provide a strong framework for evaluating threats to U.S. financial stability. As you note, threats to financial stability can emanate from a variety of sources. I believe that the Council's assessments of emerging threats to financial stability, as described in the Council's two annual reports, are well-founded. If confirmed, I look forward to engaging with members of the Council on the important issues highlighted in your question.

Question 11:

Response to Hatch Question 105: Which reform option, if any, from those laid out by Treasury in February 2011 is closest to the reforms you would support for the GSEs, Fannie and Freddie?

You provided a response, but did not identify which reform option, if any, from those laid out by Treasury in February 2011 is closest to the reforms you would support for the GSEs.

Regardless of the exact form taken by reform of the housing finance system, if confirmed, I would expect a plan to meet several core, fundamental requirements. A reform plan would need to ensure that private capital becomes the primary source of mortgage credit and bears the primary burden for credit losses. Taxpayers must be strongly protected. I would also seek a system that sets in place robust safeguards and helps ensure credit-worthy American families' access to sustainable mortgage credit and products. Additionally, credit availability and the finance system should be stable and not reinforce cyclical market swings. Given the complex work required to balance these priorities and the dynamic nature of the housing market, my intent, if confirmed, is to engage in a thorough evaluation of this issue with Administration policymakers, members of Congress, and other stakeholders.

Question 12:

Response to Hatch Question 106: If confirmed as Treasury Secretary, when would you begin to actively pursue reforms to the GSEs, Fannie and Freddie and when would you expect to have arrived at your most preferred reform?

You provided a response, but did not identify any expected time frame. Please do so, or identify that you do not currently know when you would begin to actively pursue reforms or when you think you will have arrived at your most preferred reform.

Given the complex work required to balance our priorities and the dynamic nature of the housing market, my intent, if confirmed, is to engage in a thorough evaluation of this issue with Administration policymakers, members of Congress, and other stakeholders.

Question 13:

Response to Hatch Question 107a: The Fed's policy of buying up tens of billions of long-term Treasuries each month, and prior quantitative easing measures, including the so-called "operation twist," to push long-term interest rates down is a purported effort to ultimately help job creation. Do you agree that the Fed's quantitative easing strategy of attempting to lower long-term interest rates has led to and will lead to job creation relative to a setting in which there was no quantitative easing in place?

Your response indicated that Treasury has a policy to refrain from commenting on Fed policy decisions. I asked for your view, not Treasury's.

I agree with Treasury's policy to refrain from commenting on policy decisions of the Federal Reserve.

Question 14:

Response to Hatch Question 107c: Do you agree with Fed Chairman Bernanke that Treasury's strategy of lengthening the average maturity of outstanding federal debt is "an issue" and offsets some of the benefits of the Fed's policies?

Your response identifies that "Given the low level of interest rates at present, it does not appear that Treasury's borrowing activity is putting upward pressure on interest rates." From this response, I take your response to my question to be a "no;" that is, you do not agree with Fed Chairman Bernanke's assessment identified above. Correct me if I am wrong.

If confirmed I look forward to having regular conversations with Chairman Bernanke regarding economic policy matters.

Question 15:

Response to Hatch Question 123: The Treasury Department has no set of coherent policies regarding Department use of social media. As things stand, use of such media is loosely governed by Office of Management and Budget memoranda, most of which apply to

privacy issues. The Treasury Department seems not to do much, if any, monitoring of public postings on its social media outlets. For example, on its Facebook page, private telephone numbers and the like can be viewed among the public commentary. Will you, if confirmed as Treasury Secretary, develop and provide to Congress policies and procedures governing Treasury's use of social media outlets?

Your response indicates to me that you will not, if confirmed, develop and provide to Congress policies and procedures governing Treasury's use of social media and that you are content with the status quo. Correct me if I am wrong.

I strongly support transparency and openness in government. I believe that federal agencies, such as Treasury, should use a variety of means to share information and to solicit input from the general public. In recent years, new technologies, such as social media, have become increasingly important and powerful tools. I support Treasury's efforts to use these new technologies to communicate more effectively with the public. At the same time, I recognize that new technologies can create certain risks, for example, in regard to personal privacy and data security. I do not yet work at Treasury, however, and I have not had an opportunity to review the Department's practices in this area. If confirmed, I would work to ensure that Treasury uses new technology effectively—both to share with and to gather information from the public—and in a manner that protects personal privacy interests and data security.

Question 16:

Response to Hatch Question 124: Last year, Treasury displayed on numerous social media outlets arguments and an infographic (titled "Penny Wise and Pound Foolish") identifying funding levels for the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) specified in legislation pending before the Congress. The arguments and infographic represent, in my view, lobbying activities by Treasury, posted before the public on social media sites, against legislation pending before the Congress. The lobbying was with respect to funding levels for the SEC and CFTC, both of which are independent of Treasury.

a. **Do you support Treasury's use of appropriated funds to lobby against legislation pending before the Congress with respect to funding levels of regulatory bodies that are independent of Treasury?**

   Your response identified your understanding of Treasury's views. My question is whether you, not Treasury, support use by Treasury of appropriated funds to create information promoting opposition of legislation with respect to funding levels of government regulatory agencies that are independent of the Treasury.

b. **Would you, if confirmed as Treasury Secretary, institute any policies and procedures governing Treasury's use of appropriated funds that would prohibit the type of activity identified above?**

   Your response, which identified your understanding of Treasury's views, does not respond to this question. Would you, if confirmed, institute any policy to prevent the type of activity identified above, or are you content with the status quo?

As noted above, I strongly support transparency and openness in government. I believe that Treasury has a duty to inform the public about its work, including its efforts to promote economic growth and financial stability.

I understand that the purpose of the infographic referenced in your question was to highlight the importance of adequately funding two financial regulatory agencies, the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC). I support the work of these two agencies, which is critical to the stability of our financial markets. And I believe that Treasury has a strong interest in making sure that they have sufficient resources to fulfill their statutory missions. Nonetheless, I recognize that there are legal restrictions that prohibit federal agencies from engaging in indirect or grassroots lobbying of Congress. If confirmed, I would comply fully with the law.

Question 17:

Follow up to questions 1-9, 11-12, 15, 17, 22-23, 29-31, and 37-38: Mr. Lew, as I said during my opening statement at your confirmation hearing, the Secretary of the Treasury plays a key role in the international financial sphere. Your failure to respond in a meaningful way to the questions for the record from the Senators of the Finance Committee continues a real lack of leadership and lack of transparency from this Administration. Your non-responses to my particular questions regarding trade and currency policy continue the Treasury Department's ongoing practice of refusing to brief the Congress on its views and policies in a meaningful way.

For example, you wrote back to me during the due diligence process prior to your confirmation in response to one of my questions that "[You] take requests by Members of Congress very seriously, including requests to provide views on pending legislation. If confirmed, [you] would work to respond to all such requests in a timely manner." A mere two weeks later, in your responses to my questions for the record, you completely ignored my questions requesting your views, and the views of the Administration, about a piece of legislation the Senate passed in the 112th Congress, S. 1619, almost a year and a half ago. A year ago, former Secretary Geithner stated in written responses to this Committee on the record that the Administration had concerns that aspects of this bill may be inconsistent with U.S. international obligations. The Administration's and your failure to explain what those concerns are for over almost a year and a half is unacceptable. Moreover, your refusal to meaningfully answer questions about the overall currency policy of the Treasury Department and the Administration, your refusal to share views on whether or not to include currency provisions in the Trans-Pacific Partnership, and your refusal to share in detail the President's plans for reorganizing the trade agencies, all suggest that you do not, in fact, take the requests of Senators from this Committee seriously.

So I ask you again, please respond in a meaningful way to questions 1-9, 11-12, 15, 17, 22-23, 29-31, and 37-38 that I submitted to you as questions for the record. Please provide detailed responses to these questions that demonstrate your commitment to share your views and the views of the Administration with me and the other Members of this Committee. In amending your responses to these trade and currency questions, you have

the opportunity to show that you and the Administration will work seriously with the Congress and the Finance Committee.

In my previous positions in the Administration, I have been a strong advocate of free and fair trade. I believe that exports are essential to economic and job growth in the United States, and have been supportive of a robust trade agenda. As Deputy Secretary of the State Department, I actively promoted the United States' entry into the Trans-Pacific Partnership negotiations, helped formulate the Administration's policy, and participated in the Strategic and Economic Dialogue with China. As Director of the Office of Management and Budget, I worked with the economic agencies and Congress to successfully ratify the three free trade agreements with Colombia, Panama, and Korea. If confirmed, I would continue to work to open markets to U.S. goods and services and create additional opportunities for U.S. workers using tools and approaches that are effective and consistent with our international obligations, while insisting that our trade partners live up to their international obligations.

On currency, I strongly believe that China, given its role and size in the international trading system, must move to abide by the same set of international norms and standards as its major trading partners. It is important that all major economies move to market-determined exchange rates to ensure we derive full benefits from trade liberalization and to guard against protectionism.

This approach has yielded progress. The renminbi has appreciated by about 15 percent against the dollar in real terms since June 2010 when China moved off its currency peg. China's current account surplus has fallen from a peak of over 10 percent of GDP to under 3 percent today, and U.S. exports to China have almost doubled since early 2009. In the G-20, China has committed to move more rapidly toward a market-determined exchange rate, refrain from competitive devaluation, and not target its exchange rate for competitive purposes.

But more remains to be done. If confirmed, I would take steps that are effective and consistent with our international obligations to press China to fulfill its commitments to move to a market-determined exchange rate and to level the playing field for our workers and firms. If confirmed, I would welcome the opportunity to work closely with Congress on these important issues.

Senator Charles E. Grassley

Question 1:

Mr. Lew, Principle 23 of the Panel on the Nonprofit Sector's "Principles for Good Governance" specifically states a "charitable organization should not provide loans (or the equivalent, such as loan guarantees, purchasing or transferring ownership of a residence or office, or relieving a debt or lease obligation) to directors, officers, or trustees." In the limited circumstances that a charity does provide a loan to an employee, its terms "should be clearly understood and approved by the board." Given that these guidelines raise significant issues for tax-exempt organizations like NYU, it is critical that the Senate has the ability to see if those guidelines were adhered to and to receive a fully transparent answer from you.

a. **In your response, you state that the terms of NYU's housing assistance are described in your employment agreement you released to the Committee. The employment contract does describe housing assistance that "will be available to you....[e]xcept as otherwise provided for in any subsequent written agreements." However, it is not clear these details are specific to your loan. The information you have provided thus far does not answer the questions I asked including the terms of the loan, the loan's interest rate, and minimum payment requirements. Please provide me this information as previously requested. Please feel free to consult your records regarding this information. If these records have been destroyed, please inform us and explain why they were destroyed and why they are not accessible to you through NYU or your lender.**

b. **Your answer indicates that the interest rate was equal to the rate earned by the bond portion of NYU's endowment. How was it determined that this was a reasonable rate of interest? Did this constitute a below market rate and by what measure, for the purposes of determining your tax liability?**

c. **Your answer to my questions appears to indicate you received a 5 year forgivable loan from NYU. Is this an accurate description of the loan? Please clearly identify the amounts of the loan that were ultimately forgiven and all amounts that were reported as income, including amounts that would be considered income from receiving a below market loan.**

d. **At the end of your term with NYU, what was your share of the equity in the property financed by the NYU loans? Assuming this property has been sold, what was the gain you received and what was the gain received by NYU?**

e. **In response to my question asking whether any terms of the loan altered at any point and if so, asking you to describe which terms were altered and when, you did not provide any information. Please answer whether any terms of the loan altered at any point. If so, please describe which terms were altered and when.**

f. **I requested that you provide the promissory note and any other documents related to the loan; you did not provide them. Please provide the promissory note and any other documents related to the loan. If you are refusing this request, please explain the statutory basis for refusing to answer this question. If these records have been**

destroyed, please inform us and explain why they were destroyed and why they are not accessible to you through NYU or your lender.

As I noted in my previous submission to the Committee, I received housing assistance from NYU. The terms of that assistance are described in my May 2001 NYU employment agreement, which I have disclosed to the Committee. According to the agreement, the terms include: a mortgage forgiven in equal installments over five years; an additional shared appreciation mortgage; and an annual payment equal to the interest paid on the first mortgage described above. The agreement states that the interest on both loans was equal to the rate earned by the bond portion of NYU's endowment in the quarter preceding the signing of the mortgage.

NYU provided the financing over a decade ago. During the intervening time period, I repaid the University and privately refinanced the mortgage on my home multiple times. I am still living in the same home today.

To the best of my recollection, I believe the history is as follows. I obtained mortgage financing from NYU in the summer of 2001, and the University determined the interest rates (consistent with my employment agreement). According to the publicly available Forms 990 filed by NYU, the financing was provided "in connection with the University's Faculty Housing Program, a program approved by the University's Compensation Committee." The Forms 990 list the balance of the loans as of August 31 of each year, from 2002 to 2006. Between the 2003 and 2004 filings, the principal balance was reduced by approximately $700,000. During that period, NYU provided $200,000 in principal forgiveness (corresponding to my first two years of employment), and I refinanced approximately $500,000 into a separate private loan not provided by NYU. Several years later, when I left the University in the summer of 2006, the balance of my remaining debt to NYU was approximately $670,000. I repaid the amount in full within a year by refinancing through a private mortgage lender. Since that time, approximately six years ago, I have not had any outstanding debt to NYU. Over the course of my five years of employment, NYU reported approximately $440,000 of total income associated with housing assistance on my Forms W-2, and I paid all taxes that were due.

